

## SECOND DAY

(Wednesday, January 11, 1939)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Hon. Homer Leonard.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Goodman
Allen	Gordon, Mrs.
Allison	Hale
Alsup	Hamilton
Anderson	Hankamer
Bailey	Hardeman
Baker	Hardin
of Fort Bend	Harp
Baker of Grayson	Harper
Bell	Harrell of Bastrop
Blankenship	Harrell of Lamar
Bond	Harris
Boyd	Hartzog
Boyer	Heflin
Bradbury	Holland
Bradford	Howard
Bray	Howington
Bridgers	Hull
Broadfoot	Hunt
Brown of Cherokee	Isaacks
Brown	Johnson of Ellis
of Nacogdoches	Johnson of Tarrant
Bundy	Keith
Burkett	Kennedy
Burney	Kern
Cauthorn	Kerr
Celaya	Kersey
Chambers	Kinard
Clark	King
Cleveland	Langdon
Cockrell	Lehman
Coleman	Leonard
Colquitt	Leyendecker
Colson, Mrs.	Little
Cornett	Lock
Corry	Loggins
Crossley	London
Daniel	Mays
Davis of Jasper	McAlister
Davis of Upshur	McDaniel
Dean	McDonald
Derden	McFarland
Dickison	McMurry
Dickson	McNamara
Donaghey	Mohrmann
Dowell	Monkhouse
Dwyer	Montgomery
Faulkner	Morris
Felty	Newell
Ferguson	Nicholson
Fielden	Oliver
Fuchs	Olsen
Galbreath	Pace
Gilmer	

Petsch	Spencer
Pevehouse	Stinson
Piner	Stoll
Pope	Talbert
Ragsdale	Tarwater
Reader of Bexar	Taylor
Reader of Erath	Tennant
Reaves	Thornberry
Reed	Thornton
Rhodes	Turner
Riviere	Vale
Roach	Vint
Roberts	Voigt
Robinson	Waggoner
Russell	Weldon
Schuenemann	Wells
Segrist	Westbrook
Shell	White
Skiles	Wilson
Smith of Frio	Winfree
Smith of Hopkins	Wood
Smith	Worley
of Matagorda	Wright

A quorum was announced present.

Prayer was offered by Dr. Guy H. Wilson of Marshall, Texas.

COMMUNICATION FROM HON.  
R. E. MORSE

The Chair laid before the House, and had read, the following communication:

Louise Snow Phinney, Acting Chief Clerk, House of Representatives.

During my absence from the House of Representatives, on Wednesday, January 11, 1939, I hereby designate the Honorable Homer Leonard to preside in my absence.

R. EMMETT MORSE

EXTENDING AN INVITATION TO  
THE WIVES OF THE  
MEMBERS OF THE  
HOUSE

Hon. Homer Leonard extended an invitation to the wives of the Members of the House to attend a luncheon given by Hon. and Mrs. R. E. Morse, honoring the wives of the Members of the House at 1:00 o'clock p. m. today, at the Driskill Hotel.

EXTENDING INVITATION TO  
MEMBERS OF THE HOUSE

Hon. Homer Thornberry, having been recognized by the Chair, extended an invitation to the Members of the House of Representatives and their wives to attend a banquet to be

given by the Travis County delegation and citizens of Austin at 7:00 o'clock p. m. at the Driskill Hotel.

**COMMITTEE APPOINTED TO  
ESCORT GOVERNOR JAMES  
V. ALLRED TO THE  
SPEAKER'S STAND**

The Chair announced the appointment of the following committee to escort Governor Allred to the Speaker's Stand, for the purpose of delivering an address to the Joint Session:

Messrs. Morris, Thornton, Ferguson, Hardeman and Wood.

**BILL ORDERED NOT PRINTED**

On motion of Mr. Thornton, House Bill No. 1 was ordered not printed.

(Mr. Morris in the Chair)

**NAMING ALICIA ANN REED AND  
BARBARA MAE LEONARD  
QUEEN OF MASCOTS OF  
THE HOUSE**

Mr. Thornton offered the following resolution:

H. S. R. No. 6, Naming Alicia Ann Reed and Barbara Mae Leonard Queen of Mascots of the House.

Whereas, Romance is the propelling force of the universe; compelling instinct of mankind in busy marts of trade, cloistered halls of learning, at the tilled acre's turn-row, and in stately chambers of the lawgivers; and

Whereas, Romance that gladdened hearts of the Forty-fourth and Forty-fifth Legislatures has brought flowers to bestow upon us of the Forty-sixth Legislature; and

Whereas, It becomes us as men and women lawgivers to be mindful of these gifts of the tardy hours of romance and make manifest our gratitude; and

Whereas, There are fruits of law-making sessions more fraught with sweetness than mounting taxes, increased deficits and restrictive statutes; and

Whereas, Romance and its sweetnesses has been a permanent endowment of these hallowed halls and through its agents has blessed each succeeding generation with fruits surpassing the riches of forest, field and mine; and

Whereas, That servant and savior of mankind, the stork has conspired

with the forces of sweetness and light to favor this assembly with cherubic smiles that are perpetuated sun shafts of romance that followed within these walls;

Now, Therefore, In recognition of these enduring gifts be it

Resolved, That Alicia Ann Reed, ten month old daughter of Representative and Mrs. W. O. Reed, and Barbara Mae Leonard, six months old daughter of Representative and Mrs. Homer Leonard, be and hereby are acclaimed jointly Queens of Mascots of this Forty-sixth Legislature to reign over its sessions and by their presence be agents provocateur for further romance to bless these proceedings.

But, Be It Further Resolved, That we admonish the young men who are taking their places among us that ours still predominantly is a government of men and we beseech you to go thou and do likewise but please we beseech thee give a thought to posterity and reward the Forty-seventh Legislature with a fair proportion of men infants.

The resolution was read second time, and was adopted.

(Mr. Leonard in the Chair)

**TO PROVIDE FOR THE APPOINTMENT OF LEGAL ADVISORS  
FOR THE HOUSE**

Mr. Alsop offered the following resolution:

H. S. R. No. 12, To provide for the appointment of legal advisors of the House.

Whereas, At this Session of the Legislature there will be an unprecedented amount of legislation to be considered, and many intricate and difficult questions of constitutional and statutory constructions will arise; and the proper preparation of measures and bills will demand the attention of the House of Representatives; and

Whereas, There is great need for legal aid or one or more competent persons who can give special attention to such matters and act for the House of Representatives as legislative counsellors; and

Whereas, Such appointment will be of special value to the non-law Members; now, therefore, be it

Resolved by the House of Representatives of the State of Texas, That

the Speaker be authorized and requested to employ not more than two able attorneys experienced in such matters as such legislative counsellors for the House of Representatives at this Session. Upon acceptance and entering upon said duties, the compensation of each of said counsellors shall be Ten (\$10.00) Dollars per day, payable out of the appropriations for contingent expenses. Such counsellors shall be furnished office space, stenographic help and such books, supplies and equipment as shall be necessary, on order of the Speaker of the House of Representatives, the sum to be paid for out of the appropriation for contingent expenses.

The resolution was read second time.

Mr. Dean moved that the resolution be referred to the Temporary Committee on Rules.

The motion prevailed.

#### ENDORISING POLICIES OF HON. R. EMMETT MORSE

Mr. Brown of Nacogdoches offered the following resolution:

H. S. R. No. 13, Endorsing policies of Hon. R. Emmett Morse.

Whereas, The Hon. R. Emmett Morse, as our newly elected Speaker, has started a move to greatly reduce the expenses in handling the business of the House; therefore, be it

Resolved by the House of Representatives, That we as Members heartily endorse this move in the interest of economy and that to the best of our knowledge and belief we feel sure that the rank and file of the citizenship of this State will enthusiastically concur in such endorsement.

The resolution was read second time, and was adopted.

#### MESSAGE FROM THE SENATE

Austin, Texas, January 11, 1939  
Hon. Emmett Morse, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

H. C. R. No. 2, Providing for a Joint Session of the House and Senate for the purpose of hearing Governor James V. Allred deliver his message in person.

Respectfully,

BOB BARKER,

Secretary of the Senate.

#### HOUSE BILL NO. 1 ON SECOND READING

The Chair laid before the House, on its second reading and passage to engrossment,

H. B. No. 1, A bill to be entitled, "An Act making an appropriation of the sum of Two Hundred and Fifty Thousand (\$250,000.00) Dollars, or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Forty-sixth Legislature, and to pay any unpaid accounts of the Second Called Session of the Forty-fifth Legislature, and declaring an emergency."

The bill was read second time, and was passed to engrossment.

#### HOUSE BILL NO. 1 ON THIRD READING

Mr. Thornton moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 1 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—135

Allen	Cleveland
Allison	Cockrell
Alsup	Coleman
Anderson	Colquitt
Bailey	Colson, Mrs.
Baker	Cornett
of Fort Bend	Corry
Baker of Grayson	Crossley
Bell	Davis of Jasper
Blankenship	Davis of Upshur
Bond	Dean
Boyd	Derden
Boyer	Dickison
Bradbury	Dickson
Bradford	Donaghey
Bray	Dowell
Bridgers	Dwyer
Broadfoot	Faulkner
Brown of Cherokee	Felty
Brown	Ferguson
of Nacogdoches	Fielden
Bundy	Fuchs
Burkett	Galbreath
Burney	Gilmer
Celaya	Goodman
Chambers	Gordon, Mrs.
Clark	Hale

Hamilton	Pace	Bradbury	King
Hardeman	Piner	Bradford	Langdon
Harp	Reader of Bexar	Bray	Lehman
Harper	Reader of Erath	Bridgers	Leyendecker
Harrell of Bastrop	Reaves	Broadfoot	Little
Harrell of Lamar	Reed	Brown of Cherokee	Lock
Harris	Rhodes	Brown	London
Hartzog	Riviere	of Nacogdoches	McAlister
Heflin	Roach	Bundy	McDaniel
Holland	Roberts	Burkett	McDonald
Howard	Robinson	Burney	McFarland
Howington	Russell	Celaya	McMurry
Hull	Schuenemann	Chambers	McNamara
Isaacks	Segrist	Clark	Mohrmann
Johnson of Ellis	Shell	Cleveland	Montgomery
Johnson of Tarrant	Skiles	Cockrell	Morris
Keith	Smith of Frio	Coleman	Newell
Kennedy	Smith of Hopkins	Colquitt	Nicholson
Kern	Smith	Colson, Mrs.	Pace
Kerr	of Matagorda	Cornett	Pevehouse
Kersey	Spencer	Corry	Piner
Kinard	Stinson	Crossley	Ragsdale
King	Stoll	Davis of Jasper	Reader of Bexar
Langdon	Talbert	Davis of Upshur	Reader of Erath
Lehman	Tarwater	Dean	Reaves
Leyendecker	Taylor	Derden	Reed
Little	Tennant	Dickison	Rhodes
Lock	Thornberry	Dickson	Riviere
Loggins	Thornton	Donaghey	Roach
London	Turner	Dwyer	Roberts
McAlister	Vint	Faulkner	Robinson
McDaniel	Voigt	Felty	Russell
McDonald	Waggoner	Ferguson	Schuenemann
McFarland	Weldon	Fielden	Segrist
McMurry	Wells	Fuchs	Shell
McNamara	Westbrook	Galbreath	Skiles
Mohrmann	White	Gilmer	Smith of Frio
Montgomery	Wilson	Goodman	Smith of Hopkins
Morris	Winfree	Gordon, Mrs.	Smith
Newell	Wood	Hale	of Matagorda
Nicholson	Worley	Hamilton	Spencer
Oliver	Wright	Hankamer	Stinson

## Absent

Cauthorn	Olsen
Daniel	Petsch
Hankamer	Pevehouse
Hardin	Pope
Hunt	Ragsdale
Mays	Vale
Monkhouse	

The Chair then laid House Bill No. 1 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

## Yeas—132

Allison	Baker of Grayson
Alsup	Bell
Anderson	Blankenship
Bailey	Bond
Baker	Boyd
of Fort Bend	Boyer

Bradbury	King
Bradford	Langdon
Bray	Lehman
Bridgers	Leyendecker
Broadfoot	Little
Brown of Cherokee	Lock
Brown	London
of Nacogdoches	McAlister
Bundy	McDaniel
Burkett	McDonald
Burney	McFarland
Celaya	McMurry
Chambers	McNamara
Clark	Mohrmann
Cleveland	Montgomery
Cockrell	Morris
Coleman	Newell
Colquitt	Nicholson
Colson, Mrs.	Pace
Cornett	Pevehouse
Corry	Piner
Crossley	Ragsdale
Davis of Jasper	Reader of Bexar
Davis of Upshur	Reader of Erath
Dean	Reaves
Derden	Reed
Dickison	Rhodes
Dickson	Riviere
Donaghey	Roach
Dwyer	Roberts
Faulkner	Robinson
Felty	Russell
Ferguson	Schuenemann
Fielden	Segrist
Fuchs	Shell
Galbreath	Skiles
Gilmer	Smith of Frio
Goodman	Smith of Hopkins
Gordon, Mrs.	Smith
Hale	of Matagorda
Hamilton	Spencer
Hankamer	Stinson
Hardeman	Stoll
Harp	Talbert
Harper	Tarwater
Harrell of Bastrop	Taylor
Harrell of Lamar	Tennant
Harris	Thornberry
Heflin	Thornton
Holland	Turner
Howard	Vint
Howington	Voigt
Hull	Waggoner
Isaacks	Weldon
Johnson of Ellis	Wells
Johnson of Tarrant	White
Keith	Wilson
Kennedy	Winfree
Kern	Wood
Kerr	Worley
Kersey	Wright
Kinard	

## Absent

Allen	Daniel
Cauthorn	Dowell

Hardin	Oliver
Hartzog	Olsen
Hunt	Petsch
Loggins	Pope
Mays	Vale
Monkhouse	Westbrook

ADDRESS BY HON. JAMES V.  
ALLRED

(In Joint Session)

In accordance with the provisions of House Concurrent Resolution No. 2, providing for a Joint Session at 10:30 o'clock a. m., today, for the purpose of hearing the message of Honorable James V. Allred, Governor, the Honorable Senators, at 10:30 o'clock a. m., escorted by Honorable Bob Barker, Secretary of the Senate, were announced at the Bar of the House and, being duly admitted, occupied seats prepared for them along the aisle.

Lieutenant Governor Walter F. Woodul occupied a seat on the Speaker's Stand.

Lieutenant Governor Walter F. Woodul called the Senate to order.

Honorable Homer Leonard called the House of Representatives to order, and stated that the two Houses were in Joint Session, for the purpose of hearing an address by Honorable James V. Allred, Governor.

The Lieutenant Governor directed the Clerk to call the roll of the Senate.

The roll was called, and the following Senators were present:

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone
Isbell	of Washington
Kelley	Stone of Galveston
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield

A quorum of the Senate was announced present.

Mr. Leonard directed the Clerk to call the roll of the House.

The roll of the House was called, and the following Members were present:

Allen	Holland
Allison	Hull
Alsup	Isaacks
Anderson	Johnson of Ellis
Bailey	Johnson of Tarrant
Baker	Keith
of Fort Bend	Kennedy
Baker of Grayson	Kern
Bell	Kerr
Blankenship	Kersey
Bond	Kinard
Boyd	King
Boyer	Langdon
Bradbury	Lehman
Bradford	Leonard
Bridgers	Leyendecker
Broadfoot	Little
Brown of Cherokee	Lock
Brown	Loggins
of Nacogdoches	London
Bundy	Mays
Burkett	McAlister
Burney	McDaniel
Celaya	McDonald
Cleveland	McFarland
Cockrell	McMurry
Coleman	McNamara
Colquitt	Mohrmann
Colson, Mrs.	Montgomery
Cornett	Morris
Crossley	Newell
Daniel	Nicholson
Davis of Jasper	Oliver
Davis of Upshur	Olsen
Derden	Pace
Dickison	Petsch
Dickson	Pevehouse
Donaghey	Piner
Dowell	Pope
Dwyer	Ragsdale
Faulkner	Reader of Bexar
Felty	Reader of Erath
Ferguson	Reaves
Fielden	Reed
Fuchs	Rhodes
Galbreath	Riviere
Gilmer	Roach
Goodman	Roberts
Gordon, Mrs.	Robinson
Hale	Russell
Hamilton	Schuenemann
Hankamer	Segrist
Hardeman	Shell
Hardin	Skiles
Harp	Smith of Frio
Harper	Smith of Hopkins
Harrell of Bastrop	Smith
Harrell of Lamar	of Matagorda
Harris	Spencer
Hartzog	Stinson
Heflin	Stoll

Talbert	Weldon
Taylor	Wells
Tennant	Westbrook
Thornberry	White
Thornton	Wilson
Turner	Winfree
Vint	Wood
Voigt	Worley
Waggoner	Wright

## Absent

Bray	Howard
Cauthorn	Howington
Chambers	Hunt
Clark	Monkhouse
Corry	Tarwater
Dean	Vale

A quorum of the House was announced present.

At 10:35 o'clock a. m., Honorable James V. Allred, escorted by Senators Akin, Beck and Moffett, committee on the part of the Senate, and Messrs. Morris, Thornton, Ferguson, Harde-man and Wood, committee on the part of the House, was announced at the Bar of the House, and being admitted, were escorted to seats on the Speaker's Stand.

Mr. Leonard presented Governor James V. Allred, who addressed the Joint Session, as follows:

Austin, Texas, January 10, 1939.

To the Members of the Forty-sixth Legislature:

Conditions change with passing years but the processes of democratic government remain the same. As part of that process you are here today as the people's Representatives to begin the 93rd year of Texas statehood. No greater opportunity for service was ever presented than that accorded legislative representatives of the people. Their hopes are in you; through you alone can those hopes be translated into actuality. I congratulate you sincerely upon your election and the opportunity which is yours for service to Texas.

Article 4, Section 9, of the Constitution of Texas requires the Governor "at the commencement of each session of the Legislature and at the close of his term of office" to give to the Legislature "information by message of the condition of the State." It also requires him to account for all public moneys received and paid out by him from any funds subject to his order, with vouchers; and to accompany his message with a statement of the same.

This account is attached to this message and made a part of same for your information.

Ordinarily little attention is paid to the recommendations of an outgoing chief executive. Indeed I find little precedent for exhaustive messages by a retiring Governor. The framers of the Constitution were not without good reason, however, for requiring the Governor to give information to the Legislature as to the condition of the State at the close of his term of office. After four exacting years of service, he cannot but be a wiser man; and his experience and observations, without intruding upon the prerogatives of his successor, should be of tremendous benefit to all.

Any report as to "the condition of the State" necessarily carries with it a reminder of conditions confronting the State at the time of my inaugural and a brief resume of what has been done to meet those conditions. Four years ago Texas had no old age assistance law, no unemployment compensation law, no authority for or guarantee of social security whatever. At that time unemployment, want and poverty were rife throughout the State. The State Government commanded little respect or confidence, a general condition of lawlessness prevailed, the liquor traffic was not only not regulated but operating flagrantly in violation of the law. Our eleemosynary institutions were overcrowded and undermanned, our jails overflowing with insane. Real estate was taxed to the limit of the Constitution and beyond the point of ability to pay. The school fund was in a deficit and unable to meet even the minimum per capita.

During the past four years we have gone far toward meeting these problems; and while neither legislation nor administrative authority has been perfect, yet, on the whole, our efforts have been successful and "the condition of the State" is vastly improved.

The past four years might well be termed the pioneer age in social security in Texas. Today Texas not only has old age assistance and unemployment compensation, but authority to provide for the needy blind, for dependent and neglected children and retirement for our school teachers as well. Unemployment has been radically reduced and conditions generally

improved through operation of the State Employment Service.

A safety program has been inaugurated, and law and order restored, through a public safety department, second to none in the Union, manned by courteous, intelligent and honest officers—men of whom all are proud. Clemency has been placed upon a merit basis, a humane program carried farther than ever before in the State Prison System, with resulting faith and confidence in the State government. The prohibition amendment has been repealed, strict regulation substituted, resulting not only in increased revenues but in a more intelligent approach to the problem.

The greatest general building and civic improvement program in the history of the State has been carried on, with the help of the Federal Government. Our insane asylums and other eleemosynary institutions have had more additions than in any other like period of time. A great Centennial celebration has been staged, appropriate monuments and markers erected throughout the State and, with the assistance of the National Youth Administration and the State Highway Department, we have built hundreds of beautiful roadside parks. The deficit in the school fund has been wiped out, the per capita apportionment increased to the highest figure in history, appropriations for institutions of higher learning and all other educational enterprises substantially increased and, at the same time, the school ad valorem tax rate was cut from 35c to 7c, the lowest it has been in over twenty years.

There are many "carry over" members of this Forty-sixth Legislature who have been a part of the progressive program of the past four years. I am sure they share with me a pardonable pride in what has been accomplished. We must, however, "think little of past achievements" and, with the incoming Governor and newly elected Senators and Representatives, "much of what is to be accomplished."

#### Old Age Assistance

As of January 1, 1939, approximately 114,500 persons over 65 years of age are on the rolls drawing an average allotment of \$13.80 per month. This is not enough. There are many borderline and worthy cases which should be on the rolls, which would

have been on the rolls had the money been made available by the Legislature.

As you are aware repeated, though unsuccessful, efforts were made during the past four years at both regular and special sessions to secure additional funds for old age assistance. In addition to the Governor's recommendations, the State Board of Control several times requested the Legislature to provide enough money to allow at least the average of \$19.00 per month prevailing in other states and to take care of these borderline cases.

It has been no easy task, however, to raise, as we did by additional taxation, the nine and one-half million dollars of State money to be matched by like amount of Federal assistance now going to old age assistance. Indeed, as I view the practical and political difficulties through which we have passed, I regard it as no small achievement to have provided this much money and to put even this number of people on the rolls.

My successor in the Governor's office will have his own program for maximum constitutional "pensions" to every person over 65. I have no desire to intrude upon or embarrass his program in anywise. I know, however, the practical difficulties with which he will be confronted. I know that all will not be in agreement as to the wisdom of paying "pensions" to everybody over 65 years of age regardless of their need. Therefore, I urge, indeed I pray, that the Members of this Legislature, even though they may not believe in "pensions" for all, will make provision for the thousands of needy old people in Texas not yet on the rolls who need assistance; and that you will not forget that allotments to those already on the rolls should be increased if they are to have the bare necessities of life.

I feel about it now just as I did when I called the Forty-fifth Legislature into special session in September, 1937, and urged them to provide at least two million dollars more each year for the old age assistance fund.

In addition to this there is still an outstanding indebtedness against the fund of \$1,330,880.50, the balance due certain banks who purchased interest bearing warrants in the fall of 1936. These warrants were issued by order of the Legislature to tide us over the winter months until sufficient reve-

nues should accrue under a tax bill passed at the Third Called Session of the Forty-fourth Legislature to monthly match cash provided by the Federal Government. Had this not been done, all on the rolls that winter—over a hundred thousand—would have been left destitute.

I directed this indebtedness to the attention of the Forty-fifth Legislature at the last special session and asked them to make provision to meet it. At that time, acting upon information furnished by the Board of Control, I told the Legislature that unless this indebtedness was met it would necessitate cutting off all payments for two months. The Board of Control had agreed to pay the banks and was under a moral and legal obligation to do so. However, after the Forty-fifth Legislature failed to provide this money the Board of Control prevailed upon the banks to wait; and since that time only \$218,000.00 has been paid on the indebtedness. If they make additional payments on it, without new funds being provided, it can only result in further reducing the rolls.

It therefore becomes the duty of this, the 46th Legislature, to provide additional revenues to retire this indebtedness. I am sure you will promptly do so.

#### Deficit in General Fund

At the time of my inauguration on January 15, 1935, the cash deficit in the General Fund was \$9,761,878.38. At that time I pointed out to the members of the Forty-fourth Legislature that this deficit would increase and recommended that it be taken care of by levy of additional taxes. This was not done.

Again at the beginning of the Regular Session of the Forty-fifth Legislature in 1937, I pointed out that expenditures from the General Fund exceeded its receipts an average of two and one-half million dollars per year; and that unless some provision was made the deficit would be increased at the end of the fiscal year to approximately \$15,000,000.00. No provision was made and the year wound up with a deficit of approximately \$15,194,000.00.

When I convened the Forty-fifth Legislature in Special Session in September, 1937, I again directed their attention to this deficit and told them that unless provision was made, it

would increase to approximately \$20,000,000.00. The deficit actually amounts to approximately that amount at the present time.

This increase in the deficit is due to several factors: first, increased appropriations by the Legislature (even in addition to items approximating ten million dollars vetoed from the last biennium appropriation); second, a tendency on the part of the Legislature in recent years to put new burdens on the general revenue fund (no matter how far it goes into the "red"), rather than vote new taxes to take care of new obligations.

As evidencing this, I call your attention to the three million dollar appropriation for the Texas Centennial, the tremendous increases in rural aid, the payment of relief bonds and interest and the remission of taxes to various counties in the State, such as the Brazos Valley Conservation project, renewal of the Galveston County remission, etc. No new funds were provided to supplement these diversions from the General Fund. This tendency is further evidenced by vetoed appropriations for the proposed Big Bend National Park (\$750,000.00), the Harris County tax remission bill (\$350,000.00 annually for ten years), the cotton laboratory (\$250,000.00) and the soil conservation authority act (diverting \$1,500,000.00 of ad valorem taxes annually).

These examples are cited to you as a predicate not only for the suggestion that provision should be made to whip out the deficit in the General Fund, but that hereafter in voting increased appropriations or authorizing expenditures for new purposes, the revenues should be provided simultaneously.

I desire to particularly call to your attention the fact that all of the increase in the General Fund deficit during my administration is more than balanced by payments made and sinking funds for relief bonds voted under the preceding administration. You will recall that in the summer of 1933 the people authorized the issuance of twenty million dollars worth of relief bonds. In the 15 months immediately preceding the beginning of my administration, sixteen and a half million dollars of these bonds had been issued and practically all of it spent. The Board of Control



(the relief organization since that time) has done a splendid job in stretching the remaining three and a half million dollars out over a period of four years time. They have made it last until March 1, 1939.

In the meantime, \$10,447,008.25 has been paid in principal and interest on these bonds; in addition \$4,079,464.25 has been set aside in sinking funds to meet principal and interest payments during the coming year. So we see the increase in the deficit during my administration is more than offset by the amounts taken out of general revenue to pay on the bonds.

### Relief

The question of administering relief to needy citizens of Texas continues important for the reason that there remain in Texas approximately 858,900 persons eligible for work relief and more than 150,000 unemployable needy people who would not be able to work if they had employment.

Under the National relief program, the Texas Relief Commission has received from the Federal Government approximately one hundred million dollars. In addition they have enrolled approximately 110,000 boys in the CCC program, who have received in salaries from the Federal Government more than \$25,000,000.00, which has gone to their needy families. The Federal Government has furnished to the Texas Relief Commission for distribution to the needy people surplus commodities worth more than \$25,000,000.00.

On December 31, 1935, (during the first year of this administration), the Federal Government discontinued grants to the States for direct relief. The Texas Relief Commission had a residue of Federal grants and a small balance of the \$20,000,000.00 bread bonds, with which they took care of the unemployables from that date to July 1, 1936. By conserving these funds the Board has paid administrative expenses incurred in certification of work relief clients, unemployable clients for surplus commodities, and needy employables out of employment, also in selecting enrollees and certification of the CCC applicants, and the supervision of distribution of surplus commodities. By reducing expenses as rapidly as possible and inducing the counties to furnish case workers, storage for surplus commodities and

office space for employees, the Board has been able to continue to meet the State's obligation to the Federal Government in administering relief programs.

Since January 20, 1938, the Works Progress Administration authorities have assisted by contributing additional personnel to enable the Texas Relief Commission to carry on until such time as the Legislature could make the necessary and required appropriation to meet the State's responsibility in the relief program. The cooperative arrangement between the Texas Relief Commission and the Works Progress Administration is on a month to month basis and I am advised that this arrangement will terminate March 1, 1939. Since the balance of the residue of Federal and State funds will be exhausted about that time, I therefore urge and recommend that the Legislature give early consideration to this problem. Necessary appropriations should be made for supervisory expenses which will enable the Texas Relief Commission to continue to meet the State's responsibility to the needy people by certification of relief clients, distribution of surplus commodities and the CCC programs in order that the relief programs may not be disrupted and the people suffer from loss of Federal funds and service.

### Aid to the Blind, and to Dependent Children

By vote of the people the Constitution was amended in 1937 so as to authorize the Legislature to provide for aid to the needy blind and to dependent neglected children. We need \$300,000.00 each year for aid to the blind and a million and a half dollars each year for aid to dependent children. These funds will be augmented by contributions from the Federal Government.

Both of these great needs were submitted to the Second Called Session of the Forty-fifth Legislature but that body failed to make provision. It therefore falls to your lot to provide additional revenues for these purposes.

### Teachers Retirement Act

The people in 1936 likewise provided for a teachers' retirement fund whereby the contributions of teachers were to be matched by the State. The

teachers have already started their contributions but as yet the State has not provided any funds whatever to meet its share. According to the State Auditor the teachers have already contributed up to the end of the fiscal year ending August 31, 1938, \$2,252,776.88. This will have to be matched by the State. In addition to this, the State Auditor estimates that \$2,475,612.00 will be required to match estimated contributions made for the fiscal year ending August 31, 1939; that \$2,568,448.00 will be required to match estimated contributions made for the fiscal year ending August 31, 1940; that \$2,661,283.00 will be required to match estimated contributions made for the fiscal year ending August 31, 1941.

It is the duty of this Legislature to provide means to meet these contributions, which responsibility was not met by the last Legislature for the existing obligations.

#### Eleemosynary Institutions

While the State has taken the greatest steps in a building program at our eleemosynary institutions during the past four years, we have as yet hardly come up to the current demand upon us. Even when the present building program is completed, unless it is continued for the ensuing two years, several hundred unfortunate insane people will naturally accumulate and have to be confined in jails. We must, therefore, keep up with the expansion necessary to meet the increase in numbers in our growing State.

The most pitiful and appealing sight in the world is presented by a simple visit to the State Home for the Feeble Minded right here in Austin. I urge all of you to immediately visit this institution, to talk with its superintendent; and when you learn, as I did, that 90% of these unfortunates are permanently hopeless and that there are hundreds now knocking at the door for admission, you will agree with me that the capacity of this institution ought to be doubled at once. It is not only the humane thing to do; it would be good business.

The State Board of Control in its budget recommendations has already cut suggested appropriations for our eleemosynary institutions to the very limit. I approve its recommendations as to the general appropriations but,

in my opinion, they have been entirely too modest in asking for the small building program contained in their report. Just as surely as this Legislature fails to provide a really sufficient building program for the next biennium, then the next Legislature will be faced with the indefensible conditions of the past—jails overcrowded with unfortunate insane.

For years the State Fire Marshall has condemned a number of the buildings at our eleemosynary institutions as fire traps. The Board of Control calls attention to this condition in their report. The facts and figures are available to you. It is nothing short of criminal for us to confine these unfortunate people in these unsafe structures. One tragic fire and the loss of life inevitably attendant upon it (as has happened in other States) will bring down upon us all the just condemnation of the people. They don't want false economy, the kind that skimps and saves at the possible cost of human lives.

Texas has no home or place for the incarceration of delinquent negro girls. This condition has been forcefully called to my attention by the district judges composing the Juvenile Board of Bexar County. We should provide an adequate building at the State Institution in Gainesville at once to take care of these unfortunate negro girls.

Again, Texas has no place for feeble minded colored people or for colored epileptics. There are hundreds, perhaps thousands, of them throughout Texas. There is no place for them and their people have no facilities to take care of them. This neglect is unpardonable, and I recommend immediate appropriations to provide adequate buildings and facilities for delinquent colored girls, and feeble minded colored people and colored epileptics.

#### Education

When I took the oath of office as Governor, the per capita for school children had been fixed by the State Board of Education at \$16.50. This obligation was delinquent. The deficit was paid off, however, the first year; and with the passage of additional revenue measures and the allocation of additional revenues to the school fund the per capita was raised to \$17.50, then to \$19.00 and finally to \$22.00 for each of the past two years,

the highest it has ever been in the history of the State. In addition to this, the appropriation for rural aid has been almost doubled.

This raising of the per capita apportionment by resolution of the State Board of Education has brought to the fore a serious legal problem as well as a most important principle of government. The revenues from which the per capita apportionment is paid is made up of certain revenues specifically allocated to the fund by law, supplemented by revenues from the ad valorem school tax on property. The ad valorem tax is authorized by Article 7, Section 3, of the Constitution, which provides that  $\frac{1}{4}$  of the revenue derived from occupation and poll taxes shall be set apart annually for the benefit of the public free schools; "and, in addition thereto, there shall be levied and collected an annual ad valorem State tax of such an amount not to exceed thirty-five cents on the one hundred dollar (\$100.00) valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public schools of this State for a period of not less than six months in each year, and it shall be the duty of the State Board of Education to set aside a sufficient amount out of the said tax to provide free text books for the use of children attending the public free schools of this State."

Article 7042, of the Revised Statutes, provides that each tax assessor in the State shall make a statement to the Comptroller on or before July 15 of each year showing as nearly as can be ascertained the total amount of property in each county subject to taxation.

Article 7043, of the Revised Statutes, provides that within five days after the Comptroller has received certified statements from the tax assessors, the Automatic Tax Board (composed of the Governor, Comptroller and the State Treasurer) shall meet for the purpose of calculating the ad valorem rate of levy to be collected for the State and public free school purposes. It further provides methods by which the Board shall calculate the tax. This article authorizes the Board to take into consideration the revenues which will be derived from all other sources and to fix an ad valorem tax rate "that will

yield and produce for such fiscal year \$17.50 per capita for all of the children within the scholastic age as shown by said scholastic census."

Article 2665, of the Revised Statutes, provides that the State Board of Education shall "on or before the first day of August in each year," based upon an estimate theretofore furnished said Board by the Comptroller, "make an apportionment for the ensuing scholastic year of the available school fund."

Clearly these articles when construed together contemplate that the Automatic Tax Board shall meet first and determine the rate of the ad valorem tax; and shall then certify to the Board of Education the amount it is estimated will be available from all sources, including ad valorem, at whatever rate the Tax Board has fixed. The duty of the Board of Education then would be purely ministerial—the amount of the per capita being determined by simply dividing the estimated revenues by the number of scholastics and then certifying the amount to the various school districts. In the past, however, the State Board of Education has not waited on the Automatic Tax Board.

The difficulty arises because heretofore the Legislature has from time to time increased the amount of per capita apportionment by successive enactments. For years prior to 1935 it took the maximum ad valorem school tax of thirty-five cents plus all other revenues to pay the amount stipulated by the Legislature. When additional revenues became available during and after 1935 by virtue of the passage of new tax measures, sufficient funds accrued to not only retire the deficit but to pay more than \$17.50—\$19.00 for one year, and \$22.00 for the past and present year.

Always up to that time the actions of the Automatic Tax Board and of the State Board of Education in fixing the tax rate and certifying the apportionment were purely ministerial and automatic. However, with the advent of increased revenues sufficient to pay more than the statutory \$17.50, there are those who insist that the State Board of Education has a right to meet prior to the Automatic Tax Board and fix the amount which, in their judgment, will be necessary to maintain and support the public schools for a period of

not less than six months in each year; and, they contend, that it then becomes the duty of the Automatic Tax Board to levy the maximum tax of thirty-five cents on the one hundred dollars, even though when that is done it exceeds the statutory amount of \$17.50.

While the Constitution declares that sufficient taxes shall be levied to maintain and support the public schools for at least six months each year, it is silent as to where the duty reposes. Clearly this is a legislative function; especially since it involves the authorization and levying of taxes which is the constitutional prerogative of the Legislature. There is no yardstick in the Constitution as to economy, methods, or otherwise, by which the State Board of Education or the Automatic Tax Board could determine what amount is necessary to operate the schools for at least six months.

In my opinion, a request for a higher per capita than that fixed by statute is nothing more or less than a request for an appropriation. Appropriations must be made by the Legislature only. If any increase is to be made it should be made by the Legislature. I therefore recommend to you that this statute be amended so as to clearly provide the amount which the Legislature desires to give to the schools as per capita aid; then if any surplus remains over at the end of the fiscal year, this surplus can be taken into consideration by

the Legislature in determining whether it will increase that per capita. It is certainly not a sound principle of government to permit either the State Board of Education or the Automatic Tax Board to legislate by indirectly making appropriations and levying taxes.

The Automatic Tax Board, composed of the Governor, State Comptroller and State Treasurer, have passed an official resolution asking that this be called to the attention of the Legislature. They join with me in recommending that the per capita be fixed by the Legislature rather than left to the discretion of either the Board of Education or the Automatic Tax Board.

#### Text Books

In my opinion the cost of free text books is entirely too high to the taxpayers. Again, the Constitution and the law are too liberal with reference to powers of the Board of Education, the Constitutional provision simply being:

"It shall be the duty of the Board of Education to set aside a sufficient amount out of the said tax (ad valorem) to provide free text books for the use of children attending the public free schools of this State."

Following is a table showing the number of scholastics, or pupils, the number of text books purchased, the net total cost by years, and the net cost per student, or scholastic:

Session	Number of Scholastics	Number of Textbooks Purchased	Net Payments to Publishers	Net Payments per Scholastic
1931-1932	1,567,704	2,959,910	\$1,324,522.33	\$ .845
1932-1933	1,565,924	2,758,928	1,184,458.14	.756
1933-1934	1,575,652	2,862,998	1,065,545.87	.676
1934-1935	1,561,000	3,998,922	1,798,831.89	1.152
1935-1936	1,558,855	4,116,965	2,381,207.64	1.528
1936-1937	1,562,867	5,503,921	2,407,559.23	1.540
1937-1938	1,566,544	3,222,605	1,743,839.27	1.113

It will be observed that beginning with the years 1934-1935 the cost of books has steadily increased in tremendous total sums as well as the cost per student. It jumped from a million dollars in 1933-1934 to \$1,798,000.00 in 1934-1935; and to \$2,381,207.00 in 1935-1936; and to \$2,407,559.00 in 1936-1937. In other words, the cost jumped from an average of 67 cents per student in 1933-

1934 to \$1.54 in 1936-1937. The cost was more than doubled in that period of time.

In addition to this, at my request the Secretary of the State Board of Education has furnished me with an estimated cost of books already contracted for the years 1939-1940—a total of \$2,487,235.00.

It seems to me we should have accumulated a large stock of books dur-

ing the past seven years and it ought not to be necessary for us to spend so much on school books in the future. We have heard a lot of talk about economy, and here's a chance to save over a million dollars a year by placing a limitation on the amount the State Board of Education can spend for school books. It is in keeping with good government for the Legislature to authorize the total amount to be expended, rather than delegate this arbitrary power to the Board of Education or any other agency. Bear in mind that the money for these text books comes from ad valorem taxes.

We have slightly more than a million and a half school children, or scholastics, in Texas. It occurs to me that 75 cents or \$1.00 per scholastic should be sufficient. I therefore recommend that some such limitation be put on the cost of free text books. Later, should it develop that more money is needed, public policy dictates that the Legislature, not the Board of Education, determine by appropriation the amount to be spent.

#### Education for the Colored

The Constitution of Texas requires that separate schools shall be provided for the white and colored children, but requires equally as emphatically that "impartial provision shall be made for both." Impartial provision has not been made in many instances; but it is particularly true that the State has wholly failed to provide educational opportunities for negro students unable to pursue the courses of their choice in State supported institutions of higher learning. The State offers no facilities whatever to negroes for training in the professions or skilled trades. The Prairie View State Normal and Industrial College, in which the State probably receives the most value for each dollar spent, does not provide graduate work of any description and is unable to give training either in the professions or skilled trades. Negro students wishing this training must pursue their studies in out-of-State institutions. Colored teachers required to do "in-service preparatory training" must likewise attend out-of-State institutions. Even the teachers of our various negro colleges, including Prairie View, must be trained in out-of-State institutions, thus denying most colored Texans the

opportunity to render this service to the State themselves.

The Texas inter-racial commission, composed of outstanding men and women of both races, together with other civic organizations in this State have sponsored a proposal to extend State aid to Texas negro students who desire to enter professions or take post graduate work in recognized educational institutions out of the State. Similar provisions have already been made in a number of other Southern states, including Oklahoma, West Virginia, Missouri, Virginia, Maryland and Tennessee. The justice and merit of such a bill has been recognized and endorsed by a number of our leading newspapers, including the Houston Post, the Wichita Daily Times, the Waxahachie Daily Light, the Dallas Journal, the Dallas Dispatch, the Dallas Times Herald and the Fort Worth Star-Telegram. Such a bill likewise received the endorsement of the late Dr. H. Y. Benedict, President of the University of Texas, and many other progressive leaders both in the field of business and education.

In addition to the fact that the State owes this obligation to its colored citizens I direct your attention to the fact that Texas negroes who go to out-of-State institutions at their own expense are severely penalized by many factors, such as transportation, high living expenses in other States and the disadvantage of being away from home subject to Texas influences, etc.

Under the Constitution and in a spirit of fair play Texas owes its neglected negro citizens the duty of either establishing these facilities in a State institution here at home or by the passage of a reasonable State aid bill to help deserving negro boys and girls. The latter proposal is much more economical and would probably prove more satisfactory. It will not require the outlay of any tremendous sum; and, of course, appropriate safeguards will be incorporated in the bill to properly protect the interests of the taxpayers.

I therefore recommend and urge the Legislature to pass a bill similar to the one now operating in Oklahoma, making a proper and sufficient appropriation for this worthy purpose.

### State Aid for Public Library Service

Although Texas shows up creditably in financial support of the common school system and may take pride in its institutions of higher learning, it is far behind in adult education. This is particularly true in the rural sections where no library facilities whatever are available. Texas ranks 34th among the States in the literacy tables. This State is 39th among all the States in support of public libraries. 3,788,000 of our citizens are entirely without book borrowing facilities. As pointed out heretofore, Texas has been spending a lot of money on books to teach its boys and girls to read, but spends very little to provide them with worth while books after they learn to read.

I trust that when the State's finances will permit it, Texas will embark upon a program of State aid to libraries. It is quite possible that the aid of the Federal Government can be secured in this respect, and I invite your thoughtful consideration of this problem.

### Abolition of Governmental Departments

For a long time there has been a demand for the abolition or consolidation of State departments and bureaus. I made specific recommendations to the Forty-fifth Legislature urging, among other things, consolidation of the Agriculture Department with the A. and M. College at College Station. I still feel the same way about it but that Legislature in its wisdom saw fit to continue the present set-up.

I now desire to make another recommendation, one which I believe can be affected without impairment of governmental efficiency and which will save money to the taxpayers.

Under the Constitution and laws of this State the Comptroller of Public Accounts is supposed to be the real auditor for all departments of government. He is charged with the duty of auditing the accounts and checking the records of all other departments. The Attorney General likewise is charged with certain duties in this respect.

The Forty-first Legislature, however, in 1929, provided for the appointment of a State Auditor and Efficiency Expert with certain assist-

ants. The appropriation has now grown to \$75,000.00 a year. Proposals are now being made for an enlarged State Auditor's Department, the Auditor to be appointed by committees of the Legislature. While it is conceded that some fine service has been rendered by auditors in the past, yet the charge has been freely made that the Auditor, being an appointee of the Governor, has lost his usefulness; and it is hoped that by changing the appointive power this objection will be removed. I do not think so. I think it will be subject to the charge of being a political office more than ever before.

But that is neither here nor there. The Comptroller can easily audit, and he does audit other departments of the State at the present time. There is no occasion for an additional auditor other than possibly one with a very few assistants to check the Comptroller, if that be desirable.

I recommend that the office of State Auditor and Efficiency Expert be abolished in the interest of efficiency and economy.

### State Land Board

The increasing value and importance of our State lands has become more and more apparent the past few years. It was forcefully emphasized in the recent campaign for Commissioner of the General Land Office.

Practically everyone, including the new Land Commissioner, is committed to the proposition that these matters are too important, the amount involved too great, for the responsibility to be borne by any one man.

The important thing, of course, is that the Land Commissioner must be a man of unquestioned integrity and ability. Any board established by the Legislature must largely depend and rely upon him.

There is no occasion, however, for the creation of any new board carrying with it new employees. It seems to me that the matter could be handled very simply by requiring approval of the State Board of Mineral Development (which is composed of the Governor, the Chairman of the Railroad Commission and the Land Commissioner) to all leases made by the Land Commissioner. The Attorney General would also make a splendid member of such a board since, from the very beginning, he has been regarded as the people's representative.

I caution you to proceed carefully in the enactment of any complicated land law legislation. Our statutes on the subject are elaborate enough and have been construed by the courts. Oftentimes when needed reforms are sought, such as the one now desired by the people requiring divided responsibility in land leasing, there are those who would take advantage of the situation and seek to hamstring the State.

I think this new legislation should by all means authorize the sale of leases at public auction as well as by sealed bid. The experience of the University of Texas in auction sales of Texas lands has conclusively demonstrated that competition is keener and far better prices are obtained through this method of sale.

#### Civil Service

One of the greatest handicaps to modern government is the constant drain and demand made upon all our public officials by requests and recommendations for employment. I have personally experienced it as Governor. I have talked with other State officials and heads of departments. I have had repeated complaints from Members of the Legislature who say that their time is taken up by requests for endorsements.

From the moment a governor, or other State official, is nominated until after all his appointments have been made, 90 per cent of his time is taken up in interviewing people seeking employment or desiring to endorse others for employment. These applicants are not to be condemned. It is the natural thing to do under our system of government. Nevertheless, public officials are compelled by political necessities and the requirements of common courtesy to interview applicants, sometimes into the late hours of the night. As a result, these public officials are unable to attend to pressing problems of government and oftentimes find it impossible to even discuss these problems with Members of the Legislature.

The official involved has no means of checking abilities or qualifications of the applicants. Every official or legislator with whom I have discussed the matter agree with me that something ought to be done about it.

There is one answer, and one answer only! Some form of civil service for State employment should be required.

Applicants for employment should first go to a central agency within the department and the applicant should be subjected to examination to determine qualifications, character, etc. This would relieve the public officials involved and, in my opinion, result in securing more efficient help in the departments of State government. I, therefore, recommend early passage of legislation requiring civil service in all departments of the State government.

#### Council of State Governments

Texas is one of the few remaining states which is not officially a member of the Council of State Governments, that joint governmental agency serving all of the States. The Council of State Governments is the secretariat for the Governor's Conference, the National Association of Attorney-Generals, and the National Association of Secretaries of State, and it acts as a clearing house and research center for legislators, legislative reference bureaus, and for the above national organizations of public officials.

It is the medium through which many federal-state and interstate problems have been resolved and is a forum for the consideration of the increasing number of problems which overlap state boundaries: questions of water supply, highway safety, interstate truck regulations, conflicting tax regulations, interstate trade barriers, liquor control, relief, social security and transiency. Many of these matters have been the subjects of conferences in which Representatives of the State of Texas, designated by me, have taken part; and interstate actions resulting therefrom have been, and I am certain will continue to be, very beneficial to this State.

In order that Texas may take her rightful place as an authorized member of the Council of State Governments, and in order that we may continue to benefit from the many services available through this organization, I urge that you give careful consideration to a bill which will be introduced for the purpose of establishing the Texas Commission on Interstate Cooperation, a type of commission now already existing in the great majority of our states. I further recommend that Texas join with her sister states in supporting this, our joint endeavor, and that a small annual appropriation of \$4,500.00 be made to the Council of State Governments



as our part in the support of this agency.

#### Workmen's Compensation Law

The present workmen's compensation law was passed in 1917. It has seldom been amended and then only in minor details.

It was designed to protect both the working man and the employer. To a great degree it has dismally and shamefully failed in both respects.

The fault is not with the Industrial Accident Board. It is manned with a personnel of only twenty-three employees. In spite of this inadequate force it passes upon thousands of cases each year. The records show that awards of the Board to injured claimants amount to more than the same claimants can secure in court.

The whole trouble is with the law. There is no finality whatever to the findings of the Board; its orders are not even given the prima facie verity accorded to those of any other State Commission. Because of defects in the law the Commission has no standing comparable to that accorded similar boards in other states.

This defect in the law seemingly gives an injured worker or his family only the right to bring a lawsuit even after the case is made before the Board. In fact, the law invites delay and litigation by providing that attorneys' fees shall be 15% and 10% before the Board but 33 1/3% if appealed to the courts. The records show that cases appealed to the courts from the ruling of the Board have resulted in 10% less recovery for the workers than before the Board, and at a tremendously increased cost to both the employee and to the insurance company in attorneys' fees.

The Industrial Accident Board has no power to pass upon the solvency or ability of an insurance concern to do business in Texas. Even if the Board did have this power, under the present law, it is entirely too easy for irresponsible concerns to operate in Texas. After injury or death employees and employers alike have waked up to the fact that though they thought they were adequately covered, the exact opposite was true. There are thousands of crippled men throughout the State who have never received adequate compensation; some of them none at all. There are thousands of widows or orphans throughout the State whose husbands or fath-

ers have been killed in line of duty and who have never received benefits intended when this law was passed—benefits to which they are entitled by reason of regular payments of premiums by employers acting in good faith.

At present, about the only certain guarantee an injured employee has is the right to bring a lawsuit. If he is able to stand off starvation and stave off a settlement to avoid long drawn out delays after the case is in litigation, he finds, too often, that his judgment is given a concern in receivership or bankruptcy. This condition, permitted by the law, is little short of criminal!

During the past summer I caused a survey and study to be made of this problem by Dr. Karl E. Ashburn, professor of government at Texas Technological College. For this purpose he was appointed an Assistant State Auditor and has made an official report to me, which has been printed and is available to you. I recommend that you carefully study this report and then enact appropriate legislation.

It would be well for us to authorize a system of State compensation insurance similar to that prevailing in other states where it has been successful. The experience of the Colorado River Authority here at home, and of our own State Highway Department, has been most enlightening. It shows what can be done.

When the Colorado River Authority investigated private compensation insurance rates they found that the premiums on their payroll alone would have been over \$300,000.00. Instead the Authority set up its own system; and at a cost of less than \$100,000.00 they have paid compensation claims promptly, furnished hospital facilities, safety engineers and paid a small percentage of the general office expense. They actually gave the workers on this project better protection, quicker results and saved more than \$200,000.00 that they would have paid in premiums alone.

These defects in our workmen's compensation law constitutes an indictment of the stability of government to secure citizens their rights. Maimed and injured men and the families of workmen who have lost their lives in labor cry out to us for justice. This thing has gone along untouched too long. It must be rectified.



### Clemency and Parole

In 1936 the people adopted an amendment to the Constitution taking the unrestrained power of clemency out of the hands of the Governor and requiring that before the Governor can exercise this power it must be recommended by a majority of a board of pardon advisers composed of three members. This constitutional amendment is self-enacting to a degree but contemplates further legislation. The Forty-fifth Legislature passed an act which I vetoed, my veto message appearing at pp. 1342-1345 of the House Journal and pp. 715-718 of the Senate Journal. Unquestionably bills will be introduced on this subject, and I caution the Legislature to examine them carefully, in the light of certain objections and principles pointed out in my veto message.

The Board has operated merely under an appropriation by the Legislature which provides that one member of the Board shall reside in Huntsville. This has proved very satisfactory on the whole. I understand an effort will be renewed to remove the entire board to Huntsville. I do not believe this will prove satisfactory. It has been my experience that the interests of the convicts as well as the general public will best be served by having the Board and its records available here in the Capitol, not only for the benefit of the Governor but Members of the Legislature and others who desire to present cases for consideration.

There are those who criticize certain members of the Pardon Board, maintaining that they are "too hard" on convicts. I believe in a liberal clemency policy and yet I must caution this Legislature lest we swing too far the other way.

Most of this criticism is brought on by the fact that the prison population has increased in the past four years from approximately 5,800 to 7,000; and clemencies recommended have not been so liberal as those granted under some preceding administrations.

This increase in prison population is attributable to four factors; viz, first, an increase in the number of convicts received at the penitentiary; second, refusal to recommend or grant clemency to convicts suffering from venereal or other communicable diseases; third, while thousands of convicts have been released on clemencies during this administration we have

not been quite so "liberal" in releasing men as has been done upon certain occasions in the past; fourth, a change in the method of figuring commutation and overtime under the present law as construed by the Court of Criminal Appeals.

The increase in the number of convicts received at the prison is shown by a comparison of new inmates received during the months of September and October, 1938, as against 1937. In September, 1938, 169 new convicts were received in the State Prison; in September, 1937, only 140 were received. In October, 1938 304 new convicts were received as against 210 new convicts for the same month in 1937.

Comparative records for the same month show, on the other hand, that since the constitutional Board of Pardons and Paroles completed its records and systems, more convicts have been recommended and granted clemency. In September, 1938, 105 were granted conditional pardons as against 54 for September, 1937. In October, 1938, 88 convicts were given conditional pardons as against 63 for the same month last year. The Board recommended a few others which were denied by the Governor.

These recommendations do not show numerous other duties performed by the Board in connection with death penalty cases, restoration of citizenship and hunting rights; remission of fines and forfeitures.

Let us give credit where credit is due. Irrespective of whether we agree with individual members of the Board in particular cases, the Board of Pardons and Paroles has really made fine progress. They are now constitutional officers, charged with a duty just as solemn and binding upon their conscience as any taken by Members of the Legislature or by the Governor.

When the Board "took over," case records were incomplete; in half the cases the Board had no record at all. Necessarily this slowed down their recommendations until the new amendment was systematized. Now the files are full and complete; and information as why a clemency was refused or recommended is readily available.

Immediately upon the arrival of a convict at the Prison System his record is forwarded to the Board. Trial officers are promptly contacted and statements of facts in the case filed while it is fresh. This eliminates the

old problem of local officers going out of office by resignation or completion of their terms, and new officers taking their places who are unfamiliar with the facts and not in position to give the Board a correct statement.

Probably the most far reaching reform achieved by the State Prison Board has been the installation of a classification bureau in the State Penitentiary. Each convict is studied and analyzed. His own version of the case, and of his life, is secured. His past activities are checked by letters written to former employers and associates. He is then classified as to his probable rehabilitation; that is, whether he is a good, fair, or poor risk.

In addition to this, at my direction the Board requires a certificate as to whether the convict is suffering from a venereal or contagious disease. Prior to this time, even during the first year of my administration, when the Governor had the absolute power of clemency, no attention was paid to the physical condition of the convict to whom clemency was granted. We can appreciate the importance of this changed policy when we find that 45% of the convicts received at the State Penitentiary are suffering from venereal diseases; 30% from syphilis, 15% from gonorrhea.

During the past year, out of 2,900 convicts received at the penitentiary, 1,300 were suffering from venereal diseases. 850 of the 1,300 were afflicted with syphilis. It takes over a year of treatment in the State Penitentiary to render this disease non-communicable. Does any one advocate as a general policy the release of convicts suffering from communicable diseases upon a public already terrified by disclosures of health authorities as to the increasing prevalence and ravages of this most dread disease!

A large percentage of the increase in prison population is, therefore, due to the fact that immediately upon promulgation (at my instance) of the rule requiring, except in special cases, a venereal disease "clearance" before discharge upon clemency, at least 1,500 convicts were taken temporarily out of clemency "circulation." For this action neither the Board nor the Governor has any apology to make. Indeed, I regard it as a constructive achievement.

Naturally, this slowed down clemency, or discharge upon parole (which is not a matter of right, but lodged in the discretion of the Board and of the Governor); but with the lapse of a year's time the percentage of recommendations by the Board has materially increased.

Aside from these increases attributable to increase in population and a change in the loose pardon policies of some former administrations, another increase is attributable to the law itself. For many years the Prison Board had made certain allowances for overtime and commutation which the law does not permit. This erroneous construction by the Prison Board has been upheld by the Court of Criminal Appeals and the Attorney General's Department. The Prison Board has only this year followed the correct interpretation of the law as handed down by the Court of Criminal Appeals.

It may be that the Legislature will deem it advisable to increase the allowance for overtime and commutation, but it certainly should be by authority of law, not by ignoring it. Before making any change in the statutory law you should carefully ascertain the amount of overtime and commutation permissible under the present law; and determine where the change may lead us.

You should consider, for instance, that under the present law, as construed by the Court of Criminal Appeals, a convict is entitled to commutation for good behavior of two days per month for the first year, or 24 days the first year; to three days per month, or 36 days, for the second year; to four days per month, or 48 days, per year for the third year, etc., and that commutation is allowed increasing one day per month, or twelve days per year, for each year up to and including the ninth year; for the tenth, and all subsequent years, the present law allows commutation of fifteen days per month, or 180 days, per year.

The difficulty with commutation before the decision of the Court of Criminal Appeals arose because the then Prison Authorities instead of waiting until the end of the year to credit the convict at the end of twelve months with twelve months and 24 days, began at the expiration of eleven months and six days crediting him with one year. Then, at the end of

the next shortened period, before the time was served, he was allowed the entire credit for a year's service although he served a gradually lessened period.

In addition to this, under the present law, the Prison Board is allowed to give the convict credit for overtime—a credit of one extra hour for each hour of overtime put in. In allowing this overtime the prison authorities, where a man had built up 300 hours of time, gave him a credit of thirty days, basing it on a ten-hour day. The Court of Criminal Appeals correctly held that when a man is sentenced it is for a calendar period of time. In other words, he must not only spend working hours in the penitentiary, but the remaining fourteen hours as well.

In addition to this, in many instances the Prison Board allowed overtime for skilled trades simply because a convict was engaged in that character of work and not because he actually put in the time.

The best method of determining the vices or virtues in the existing law and the construction put upon it by the prison authorities until the decision of the Court of Criminal Appeals, it to take a specific case. A few years ago a man named Stone, together with one Bob Silver, assassinated a payroll clerk in a hold-up at Fort Worth. Silver received the death penalty, which was later commuted by Governor Moody; and Stone received a sentence of from 5-99 years in the penitentiary. Later Governor Miriam A. Ferguson commuted Stone's 99-year sentence to fifteen. After the sentence was cut to 15 years, it was discovered that under the system applied by the then prison authorities (which now has proved to be erroneous by the opinion of the Court of Criminal Appeals), Stone had been discharged after serving approximately six and one-half years of straight time. In other words, he was given commutation and overtime (because he was a bookkeeper) whereas if the law, as construed by the Court of Criminal Appeals, had been followed he would have had to serve at least ten years actual time under the present law to discharge his sentence which had been reduced from 99 to 15 years.

Now in making any proposed drastic change in policy you should bear such cases in mind. Let us assume,

for instance, the case of a moral pervert committing a brutal attack upon a child and given a long term of years in the penitentiary. Such men generally remain a menace to society for many years. Witness the sex crimes committed in a number of other states and one or two recent ones in this State. When a jury returns a verdict of 50 years or 99 years, they think he is going to serve that long. Yet, under even the present indeterminate sentence law, the court sentences not for 50 years or 99 years, but for "from 5 to 50 years," or "5 to 99 years" as the case may be.

Now if the present law should be changed to the extent proposed by some, such men might be automatically discharged long before serving the actual time assessed by the jury. Might it not be better to leave worthy cases in the discretion of the Board and the Governor where their clemencies could be promptly revoked, rather than permit discharge too long before the expiration of the term adjudged by the jury. This is a serious matter and we must not let passing personalities influence our decision as to policy. Discretion should always be lodged in the Board of Pardons and Paroles and the Governor as to the granting of paroles; otherwise there would be no occasion for the Board. I urge the Legislature to think long and well upon these problems before making any drastic change.

I cannot praise too warmly the services of the voluntary parole boards throughout the State. Without a penny of cost other than postage, hundreds of outstanding men and women, in more than 150 counties in the State, have acted as advisors to men released from the penitentiary, helped them secure employment and have been of invaluable assistance to the Board and to the Governor in determining whether the paroled convict was measuring up to the confidence manifested in him.

During almost four years of my service as Governor, thousands of convicts have been released upon conditional clemency. Less than 10% have had to be returned for violation of the conditions imposed upon them, and I am happy to report that only one man has attempted the commission of a really serious crime. The strange thing about this case was that it was

from a most unexpected type—a forger, who was released on a thirty-day furlough, who had no previous record of crime, and who attempted to hold up a bank. His attempt failed. This remarkable record is a testimonial to the effectiveness of a humane, friendly and cooperative attitude toward men released from the penitentiary on clemency.

These voluntary parole boards should be given official status. The Governor should be authorized to issue to them commissions under the Seal of the State. Provision should be made in the more crowded and populous centers of the State for a paid secretary to relieve the burdens now imposed upon the public spirited men and women composing the voluntary parole boards.

#### The Prison System

Recent press reports have contained accounts of criticisms of the operation of the State Prison System; and further state that an investigation will be proposed during the Forty-sixth Legislature. I am authorized by Hon. Joseph Wearden, Chairman of the State Prison Board, to state that the Board, and the prison management, will welcome a fair and unprejudiced investigation.

Mr. Wearden has been a member of the Prison Board for twelve years, since its creation in 1926. He has served as chairman during the past two years and, in my opinion, is the best informed man on the prison problem in Texas. Of course, there will always be those, who, without similar experience, or indeed any at all, can tell us, especially in the newspapers, exactly what is wrong.

I suggest that in any investigation unprejudiced and unbiased Members of the Legislature should constitute the committee. It has long been a legislative custom to appoint the sponsors of investigating resolutions, even those which make accusations, as members of the committee. Without intending any criticism of this policy, it seems to me that it would be much fairer for the sponsors of such resolutions to appear as prosecutors, just as the district attorney represents the State, and to have on the committee men whose minds are open. This is a mere suggestion, however, and will, of course, be controlled by the presiding officer of whichever branch of the Legislature institutes the investigation.

I urge that at the very outset Mr. Wearden, as chairman, should be called; and I am sure he will make a full and frank statement of problems and conditions which will probably be of inestimable benefit to all.

The State Prison Board has accomplished much during the past few years. For the first time in history a segregation program has been instituted; convicts are classified upon entry to the prison and segregated accordingly. Every effort is made to prevent the housing of young prisoners or other capable of rehabilitation, with older and hardened criminals.

Much progress has been made with reference to sanitation and hospitalization. A building program has been carried on and many modern brick buildings completed with convict labor at an average cost of \$40,000.00 per building, which would have cost with outside labor from \$125,000.00 to \$150,000.00.

One of the criticisms recently voiced in the press deals with the fact that the Prison System has not operated at a profit in the last year, or so. It is said this should be done with approximately 7,000 men constituting "free labor." As a matter of fact, these 7,000 inmates have increased rather than decreased the cost of operation. As pointed out in that portion of my message dealing with the clemency and parole problem, the prison population has increased from an average of 5,800 to 7,000, due to the increasing number of new convicts received, the less liberal exercise of the power of clemency, the requirement of a venereal clearance before clemency is granted, and the change in the rules governing commutation and overtime as required by the opinion of the Court of Criminal Appeals.

As stated by the Chairman of the Prison Board, "deficits in prison operation are not an unusual thing. The records will show that it was only on rare occasions when prison population was low and the prices of farm products were abnormally high that the prison system ever made a profit. Climatic conditions, too, will always affect the showing as long as our major revenue producing activity is farming, just as other farmers are affected." Records show that the average net loss for the nine years immediately preceding 1938 was

\$860,175.05 per year—and this with a smaller prison population.

According to Mr. Wearden, the average cash operating cost of the penitentiary last year per man was \$252.39, compared with a preceding ten-year average of \$285.05 per man; and compared with the average cost for the year just prior to creation of the Texas Prison Board (in 1926) of \$438.13 per man per year.

As pointed out by Mr. Wearden, the principal work done in the prison is farming. Even private farming can hardly be said to have been successful the past few years; but prison farming operations might perhaps be more successful if more farmers went to the penitentiary. The converse is true. Most of the inmates of the penitentiary are from cities and towns. Of 6,400 inmates on December 31, 1937, only 551, or about 8%, were farmers.

In addition, these inmates are not abled bodied men. As heretofore pointed out, of the convicts received last year 45% were suffering from venereal diseases. Of 2,968 new inmates received last year, only 1,891 were classified as suitable for work; 596 for restricted labor; and 481 for light duty. According to the report of the medical supervisor 75% of the women, and 55% of the men, showing evidence of syphilis, were unaware of the presence of the disease.

After examination of all new convicts, all these cases are hospitalized and given treatment. In the case of syphilis, this treatment lasts from fourteen to eighteen months. The cost of this treatment is increasing each year, as shown by the use of 26,945 intravanius injections in 1937 as compared to 17,895 the year previously; 17,825 bismuth injections in 1937 as compared to 13,500 in the year 1936. This was money wisely spent, yet it is typical of the many ways in which operating expenses of the State Prison System have been increased.

Again, as stated by Mr. Wearden, "guard hire alone, at salaries fixed by the Legislature (not the Prison Board) runs to \$450,000 over the previous year due to the increase in the number of inmates. The rate of pay fixed for guards is not too high, but it is almost double what, is was a few years ago."

The Prison System is under the direct management of the general man-

ager, who is appointed by the Prison Board. The Board lays down the policies which the general manager follows. Everything purchased for the Prison System is purchased through the State Board of Control, which is, of course, independent of the Prison Board and the general manager.

Every fiscal year transaction is audited and approved by the Prison Auditor, who is appointed by the Attorney General, Comptroller and State Treasurer, and is independent of the Prison Board and the general manager. All money expended by the Prison Board is directly appropriated by the Legislature.

I have not attempted to discuss all aspects of the problem, but I think, upon the whole, the operation of the State Prison has been splendid. The reforms achieved, such as segregation, institution of schools teaching trades, etc., more than offset petty criticisms.

#### Public Health

In the past two years public health work has been placed upon a higher plane and has gone farther than ever before. Whereas formerly, the State Health Department only with the handling of birth and death certificates, it is now, with the aid of the Federal Government, carrying on a far-reaching program essential to community happiness, training men for service in sanitary engineering so as to assure pure water supplies and healthful sewage systems. It now engages in stream pollution service; in inspecting, correcting and approving tourist camps; oyster shucking plants, ice factories, State parks, swimming pools, pecan shelling factories, etc. Its activities in connection with enforcement of the food and drug law has increased more than 50% in two years. Without financial help of the Federal Government and the increased State appropriation of two years ago, this could not have been done.

We should be proud of our laboratory bureau, which has performed increased services during the past two years. It is one of five such institutions in the United States licensed to manufacture and dispense biologics. The laboratory has made 164,496 diagnostic tests for the verification of suspected communicable diseases; 3,706 chemical tests of food, water, drugs and other samples; over 5,000 brains of animals examined for rabies; 4,000 milk samples; 18,124 water

samples; 24,000 blood and spinal fluids examined.

The new work of this department in industrial hygiene for the improvement and conservation of the health of our industrial population, as well as the increased activities and study of tuberculosis and malaria control, drainage, maternal and child health, dental inspection (which has increased 1000%) cannot be minimized and must not be forgotten.

But by far the most important division is that of control of venereal disease. Congress passed the LaFollete-Bulwinkle bill under which a part of this money was earmarked to the States on a matching basis. Local funds have had to be used for matching since the State did not make sufficient appropriation for venereal disease control.

I have heretofore pointed out to you the fact that 45% of those entering the State Penitentiary are suffering from venereal disease, 30% of them suffering from syphilis.

In addition to this, it is estimated that 600,000 Texans, 10% of our population, are now a potential syphilis treatment problem. Twelve per cent of the inmates of our mental hospitals are there as a direct result of syphilis; the majority of the still-births of Texas are due to this disease. Heart complications and many other preventable conditions are caused by this one disease. We can, we must continue an unceasing warfare upon it at its source.

In this matter which so vitally affects the health and happiness of the people, indeed the very existence of our citizenship, we must go forward. All of us want to economize, but it is false economy to ignore disease and causes of disease round about us. There is no security for any, even though statistics do disclose that the greater percentage of these dread diseases is among our underprivileged and unfortunate people. It spreads to all; and in any event is the responsibility of all. It will be false economy to cut down in public health appropriation. It will cost more in dollars and cents in the immediate future if this is done than any saving by reduced appropriations.

#### Department of Public Safety

Texas has the finest Department of Public Safety in the Union. In recent months it has received uni-

versal commendation and is said by authorities to be second only to the Federal Department of Justice.

All of us are particularly proud of the fine young men who compose the Highway Patrol, and of the intelligence department, with its experts who have been of invaluable assistance to local officers.

The Department is headed by three outstanding citizens of Texas, serving at a sacrifice and practically without pay. Here in this department, if anywhere, politics have been cast aside and the merit system instituted. Examinations are held, the applicants carefully checked as to character and ability, with resultant public approval and efficient service. We do not as yet have enough of these fine young men to properly patrol our highways, but during the past year they have made splendid progress in cutting down highway accidents and carrying on a safety program. I trust that each Member of this Legislature will conceive it to be his duty to see that the efficiency of this Department shall not be disturbed.

#### Law Enforcement

One unit of the Department of Public Safety, the State Ranger force, was received by transfer from the Adjutant General's Department. In the act making this transfer and creating the Department of Public Safety, the constitutional duty imposed upon the Governor to "cause the laws to be faithfully executed" was likewise placed upon the Commission. It is largely through the Ranger force, of some thirty men, that this law enforcement work has been carried on—efficiently and honestly.

The records are available as to work done in murder cases, cattle theft and bad situations cleaned up in various communities where life was hazardous to the law-abiding citizen. The most effective work done, however, for law enforcement has been in connection with driving out of business the professional big time gamblers operating in Texas. Since their political power has been broken they have been desperate; and every effort has been made and will be made to cripple the enforcement of laws against them.

I would remind you and my successor that the Governor of this State

is sworn to uphold every provision of the Constitution, including that which requires him to "cause the laws to be faithfully executed." Notwithstanding there are a few who seriously proposed to "crimp" the Governor's power and prevent his discharge of his duty to enforce the laws under the thin veil of local law enforcement. There are none of us but would prefer that laws be enforced locally if all local officers would discharge that duty. But, as is well known, there are a few spots in Texas where this will not be done. As pointed out years ago by Governor Pat M. Neff, there is no such thing as local option on law enforcement. Every prosecution is in the name of the State; and if officers in some local communities are to be permitted to enforce some laws and to ignore others it may in the future, as it has in the past, create conditions where the lawless and corrupt element becomes a decisive political factor and controls the enforcement officers themselves.

Nearly fifty years ago Governor James Stephen Hogg said:

"... When laws are passed they should be enforced, for they are but the commands of the people to their officers. Idle and obnoxious ones should be repealed, but none of them can be disregarded except at the expense of official integrity. A people who would encourage and not condemn the crime of official delinquency have but to wait to glean oppression's harvest. A government that permits a law disobeyed, commits itself to a precedent that in time will be pleaded in justification of anarchy. . . . Let the world know that in Texas the

"Sovereign law, the State's collected will,

O'er thrones and globe elate

Sits empress—crowning good, repressing ill."

Members of the Forty-sixth Legislature, for the next two years the prosperity, happiness and welfare of the people of Texas is imposed in your hands and that of the incoming Governor. The things you do here, however, will probably affect and determine the trend of affairs for years to come. I beg of you that you reflect long and prayerfully as sworn servants of the people before "turning Texas loose," before permitting her to return to the infamous con-

ditions prevailing in some sections of the State a few years ago.

In the words of Governor Hogg:  
"Enforce the law!"

#### Criminal Law Changes

No discussion of the problem of inmates of the penitentiary, or the question of law enforcement, would be complete without reference to needed changes in our criminal laws.

More than ten years ago when the general manager of our penitentiary system, one of the ablest we have ever had, was asked what was wrong with the prison system, he said that, among other things, it was due to two factors: first, the fact that automatic penitentiary sentences were imposed in certain characters of cases without reference to the nature of the crime involved; and neither courts nor juries have any discretion other than to impose a penitentiary sentence; second, because of the varying penalties imposed by juries for the same character of cases and, oftentimes, as between defendants convicted of the identical offense.

This is largely true. In some respects our criminal laws are tragically foolish. For instance, it is a penitentiary offense to forge a check, regardless of the amount involved. Recently two youngsters were convicted of forging an indorsement on an oil royalty check for eight dollars. They were sent to the penitentiary; yet if they had stolen eight dollars in money, or eight dollars in property, they would have only been guilty of a misdemeanor and could have gotten off with fines or jail sentences.

Again, the suspended sentence law cannot be invoked where a defendant is convicted of more than one offense. Oftentimes a youngster gets on a spree and perhaps while drunk will forge several small checks. He will be indicted in each case and sent to the penitentiary for a minimum of two years in each case, generally running concurrently. Neither the court nor the jury has any discretion.

A bank officer, or employee, can embezzle thousands of dollars and get off with a suspended sentence; yet a hungry boy who inexcusably yields to temptation and commits a robbery, even though the proceeds may not be more than thirty cents must go to the penitentiary. He cannot receive a suspended sentence.



From time to time we have heard criticisms of the abuses of the severance law. It too often happens that defendants tried by separate juries are given utterly inconsistent penalties. The jury trying the second, or third, case is not entitled to know anything about what happened to the co-defendant. Time and again in each administration the Governor and the Board of Pardons are confronted, even as we are at this time, with cases where men have been tried by separate juries for the same robbery and one, or more, of the defendants given a life term in the penitentiary with another receiving the death penalty.

Justice and progress dictates that these defects be rectified. It seems to me that it would be much better if in practically all character of cases the penalty might range, as it generally does in Federal Court, or in our State prohibiting driving while intoxicated, from a fine or jail sentence, or both, on up to a penitentiary sentence. Justice would be more evenly balanced if the State Judges were permitted to determine the punishment rather than leave it to the untrained and, too often, uninformed verdicts of juries.

#### Conclusion

And now, my friends of the Forty-sixth Legislature, I leave in your hands and in the keeping of my successor these suggestions and recommendations. They are poorly phrased and inadequate, but they represent the best judgment of my heart and mind and the results of my experience in the public service.

Your task is not an easy one. Government is not so simple as it used to be. Quite frequently we hear the contrast between the low cost of government of twenty and thirty years ago and the high cost of government today. Often, too, people say we have too many laws. But the fact of the matter is that our growing population, our industrial development, our agricultural and other economic problems have rendered the task of government and law making far more difficult and necessarily more expensive. People today require, and expect, more of their government than ever before. Organized minorities will continue to make demands upon you, demands which must be weighted and carefully considered. Your service

will require all of the talents, the tolerance, the temperance and thoughtful devotion to State and country that can be mustered. I am sure that if these forces are called into play, we can continue this government successfully and democratically in the interests of the people.

Respectfully submitted,  
JAMES V. ALLRED,  
Governor of Texas.

Austin, Texas, January 11, 1939  
To the Members of the Forty-sixth Legislature:

At the request of the Attorney General and the Texas Bond Commission, I submit to you for emergency and immediate action the matter of authorizing the refunding of Texas relief bonds, first series, so as to provide for a lower rate of interest (not exceeding 2%).

I am advised by the Attorney General that a bill has been prepared which if passed immediately will enable us to make a saving of more than \$80,000.00 in interest on the first series of these relief bonds.

I also submit the subject of renewing and re-creating the special district court for Montgomery, San Jacinto and Polk Counties, and for Rusk County.

Respectfully submitted,  
JAMES V. ALLRED,  
Governor of Texas.

#### SENATE RETIRES

At the conclusion of the address, the Senate, at 12:10 o'clock, p. m., retired to its chamber.

#### TEXT OF PRAYER OF THE REVEREND GUY H. WILSON

Mr. Roach offered the following resolution:

H. S. R. No. 14, To provide for the printing of certain prayer.

Whereas, We have had pleasure and profit in the excellent services of the Reverend Guy H. Wilson, Presiding Elder of the Marshall District of the Methodist Church, as temporary Chaplain at the opening of the Forty-sixth Regular Session of the Texas Legislature; and

Whereas, The content of his opening prayer was couched in poetic diction and rare classic beauty; be it

Resolved, That this opening invoca-



tion be spread upon the printed pages of the regular House Journal.

The resolution was read second time, and was adopted.

Following is the text of the prayer as ordered printed by the above resolution:

Prayer at opening of the House of Representatives, Austin, Texas, January 10, 1939, by Guy H. Wilson, Marshall, Texas:

"Almighty God, Infinite and Eternal Spirit, Maker of men and moulder of Nations, we praise Thee for goodness upon goodness higher than the mountains; for blessing upon blessing, like the waves upon the shore.

"We thank Thee for our beautiful country. We bless Thee for all her hallowed privileges and freedom. We praise Thee for all her men and women who have consecrated their strength to her highest good, and who have helped to usher in the brighter day in which we live. Thou who didst lead Israel of old with Thy pillar of flame and Thy ensign of cloud, lead Thou our own Israel, the many-tongued but one-hearted people of this great State of Texas.

"God bless the President of our Nation, the Governor of this State, the mayors of all our cities, and all who share the responsibilities and cares of government. We pray Thee for all these men gathered here in the House of Representatives—men who have been called by the confidence of their fellows to the sacred stewardship of State affairs. Grant that they may hold sacred the trust that has been reposed in them. Strengthen their sense of duty. Give them faith and daring to do right though the heavens fall. Set their hearts afire with high resolve to engage in a holy and unceasing warfare for the freedom and welfare of the people.

"Forgive, O most merciful God, that which Thou dost see amiss in us. And let us not cease to trust in the Father-God who never slumbers or sleeps, and who watches over all. Hear us in heaven, Thy dwelling place, in the name of Jesus Christ our Lord. Amen."

(Speaker in the Chair.)

#### TO PROVIDE FOR THE MAILING OF HOUSE JOURNALS

Mr. Alsup offered the following resolution:

H. S. R. No. 15, To provide for the mailing of House Journals.

Be it resolved by the House of Representatives:

That the Contingent Expense Committee be directed to furnish Journals to be mailed out by Members not to exceed ten copies for each said Member, provided, however, that if any Member desires to send out more than ten copies that such Member shall pay postage for mailing Journals from his personal account.

The resolution was read second time, and was adopted.

#### MESSAGE FROM THE SENATE

Austin, Texas, January 11, 1939.

Hon. Emmett Morse, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

H. C. R. No. 1, Fixing the mileage and per diem of the Members of the Regular Session of the Forty-sixth Legislature.

S. B. No. 18, A bill to be entitled "An Act making an appropriation of the sum of Two Hundred and Fifty Thousand Dollars, etc., and declaring an emergency."

Respectfully,

BOB BARKER,

Secretary of the Senate.

#### SENATE BILL ON FIRST READING

The following Senate bill, received from the Senate today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

S. B. No. 18, to the Committee on Appropriations.

#### RECESS

On motion of Mr. Anderson, the House, at 12:20 o'clock p. m., took recess until 2:30 o'clock p. m., today.

#### AFTERNOON SESSION

The House met at 2:30 o'clock p. m., and was called to order by Hon. Homer Leonard.

#### SENATE BILL NO. 18 ON SECOND READING

Mr. Thornberry moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that Senate Bill No. 18

be placed on its second reading and passage to third reading, and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—141

Allen	Harp
Allison	Harper
Alsup	Harrell of Bastrop
Bailey	Harrell of Lamar
Baker	Harris
of Fort Bend	Hartzog
Baker of Grayson	Heflin
Bell	Holland
Blankenship	Howard
Bond	Howington
Boyd	Hull
Boyer	Isaacks
Bradbury	Johnson of Ellis
Bradford	Johnson of Tarrant
Bray	Keith
Bridgers	Kennedy
Broadfoot	Kern
Brown of Cherokee	Kerr
Brown	Kersey
of Nacogdoches	Kinard
Burkett	King
Burney	Langdon
Cauthorn	Lehman
Celaya	Leyendecker
Chambers	Lock
Clark	Loggins
Cleveland	London
Cockrell	McAlister
Coleman	McDaniel
Colquitt	McDonald
Colson, Mrs.	McFarland
Cornett	McMurry
Corry	McNamara
Crossley	Mohrmann
Daniel	Monkhouse
Davis of Jasper	Montgomery
Davis of Upshur	Morris
Dean	Nicholson
Derden	Oliver
Dickison	Olsen
Dickson	Pace
Donaghey	Petsch
Dowell	Pevehouse
Dwyer	Piner
Faulkner	Pope
Felty	Ragsdale
Ferguson	Reader of Bexar
Fielden	Reader of Erath
Fuchs	Reaves
Galbreath	Reed
Gilmer	Rhodes
Goodman	Riviere
Gordon, Mrs.	Roach
Hale	Roberts
Hamilton	Robinson
Hankamer	Russell
Hardeman	Schuenemann
Hardin	

Segrist	Thornton
Shell	Turner
Skiles	Vale
Smith of Frio	Vint
Smith of Hopkins	Voigt
Smith	Weldon
of Matagorda	Wells
Spencer	Westbrook
Stinson	White
Stoll	Wilson
Talbert	Winfree
Tarwater	Wood
Taylor	Worley
Tennant	Wright
Thornberry	

Absent

Anderson	Mays
Bundy	Newell
Hunt	Waggoner
Little	

The Chair then laid before the House, on its second reading, and passage to third reading,

S. B. No. 18, A bill to be entitled "An Act making an appropriation of the sum of Two Hundred and Fifty Thousand Dollars and declaring an emergency."

The bill was read second time, and was passed to third reading.

#### SENATE BILL NO. 18 ON THIRD READING

The Chair then laid Senate Bill No. 18 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

Yeas—140

Allen	Clark
Allison	Cleveland
Alsup	Cockrell
Anderson	Coleman
Bailey	Colquitt
Baker	Colson, Mrs.
of Fort Bend	Cornett
Bell	Corry
Blankenship	Crossley
Boyd	Daniel
Boyer	Davis of Jasper
Bradbury	Davis of Upshur
Bradford	Dean
Bray	Derden
Bridgers	Dickison
Broadfoot	Dickson
Brown of Cherokee	Donaghey
Burkett	Dowell
Burney	Faulkner
Cauthorn	Felty
Celaya	Ferguson
Chambers	Fielden

Galbreath	Nicholson
Gilmer	Oliver
Goodman	Olsen
Gordon, Mrs.	Pace
Hale	Petsch
Hamilton	Pevehouse
Hankamer	Piner
Hardeman	Pope
Hardin	Ragsdale
Harp	Reader of Bexar
Harper	Reader of Erath
Harrell of Bastrop	Reaves
Harrell of Lamar	Reed
Harris	Rhodes
Hartzog	Riviere
Heflin	Roach
Holland	Roberts
Howard	Robinson
Howington	Russell
Hull	Schuenemann
Hunt	Segrist
Isaacks	Shell
Johnson of Ellis	Skiles
Johnson of Tarrant	Smith of Frio
Keith	Smith of Hopkins
Kennedy	Smith
Kern	of Matagorda
Kerr	Spencer
Kersey	Stinson
Kinard	Stoll
King	Talbert
Langdon	Tarwater
Lehman	Taylor
Leyendecker	Tennant
Little	Thornberry
Lock	Thornton
Loggins	Turner
London	Vale
McAlister	Vint
McDaniel	Waggoner
McDonald	Weldon
McFarland	Wells
McMurry	Westbrook
McNamara	White
Mohrmann	Wilson
Monkhouse	Winfree
Montgomery	Wood
Morris	Worley
Newell	Wright

## Absent

Baker of Grayson	Dwyer
Bond	Fuchs
Brown	Mays
of Nacogdoches	Voigt
Bundy	

## MESSAGE FROM THE SENATE

Austin, Texas, January 11, 1939  
Hon. Emmett Morse, Speaker of the  
House of Representatives.

Sir: I am directed by the Senate  
to inform the House the Senate has  
passed the following:

H. C. R. No. 3, Providing for a

Joint Session of the House and Senate at 3:00 p. m., January 12, 1939, for the purpose of counting the votes and certifying the election of the Governor and Lieutenant Governor.

Respectfully,

BOB BARKER,  
Secretary of the Senate.

## PROVIDING FOR THE ELECTION OF OFFICERS OF THE HOUSE

Mr. Monkhouse offered the following resolution:

H. S. R. No. 10, Providing for the election of officers of the House.

Be It Resolved by the House of Representatives, That the House now proceed to complete its organization by the election of the following officers in the order named:

1. One Chief Clerk.
2. One Sergeant-at-Arms.
3. One Reading Clerk.
4. One Journal Clerk.
5. One Engrossing Clerk.
6. One Enrolling Clerk.
7. One Doorkeeper.
8. One Assistant Doorkeeper.
9. One Assistant Reading Clerk.
10. One Calendar Clerk.
11. One Chaplain.

Be It Further Resolved, That in voting for the officers of the House, where the result shows no candidate has received a majority of all votes cast, that the House shall discard all names of candidates except those two who received the greatest number of votes, and shall ballot on those two, and the one receiving the greatest number of votes shall be declared elected.

MONKHOUSE,  
HULL.

The resolution was read second time, and was adopted.

Mr. Bradbury moved that in all contested elections the nominating and seconding speeches be limited to three minutes, and in all uncontested elections the speeches be limited to nominations and seconding only.

Mr. Thornton moved, as an amendment to the motion by Mr. Bradbury, that in uncontested elections the House omit the seconding motions.

The amendment was adopted.

The motion, as amended, prevailed.

### CONCERNING THE ELECTION OF OFFICERS OF THE HOUSE

Mr. Anderson moved that all candidates for the elective positions in the House be requested to withdraw from the floor of the House during the election of the various officers.

The motion prevailed, and it was so ordered.

### APPOINTMENT OF COMMITTEE TO ACT AS TELLERS TO COUNT VOTES

The Chair announced the appointment of the following committee to act as tellers to take up and count the votes in the election of officers of the House:

Messrs. Anderson, Reed, Vale, Pope and Celaya.

(Mr. Thornton in the Chair)

### RELATIVE TO NEWSPAPERS OF MEMBERS OF THE HOUSE

Mr. Leonard asked unanimous consent, that that section in H. S. R. No. 4, which refers to the newspapers of Members, be stricken from the resolution.

There was no objection offered, and it was so ordered.

### ELECTION OF CHIEF CLERK

The Chair announced that nominations for Chief Clerk of the House of Representatives are now in order.

Hon. Homer Leonard of Hidalgo County nominated E. R. Lindley of Jefferson County.

Hon. James R. Boyd of Travis County nominated James Wiginton of Travis County.

Hon. Joe Keith of Grayson County nominated Horace G. Parish of Red River County.

Hon. DeWitt Kinard of Jefferson County seconded the nomination of E. R. Lindley.

Hon. W. R. Chambers of Brown County seconded the nomination of James Wiginton.

Hon. G. C. Morris of Hunt County seconded the nomination of Horace G. Parish.

The vote being taken and counted, resulted as follows:

E. R. Lindley received 89 votes.

James Wiginton received 34 votes.

Horace G. Parish received 26 votes.

E. R. Lindley, having received a majority of all votes cast, was declared to be duly elected Chief Clerk of the House.

### ELECTION OF SERGEANT-AT-ARMS

The Chair announced that the next business in order is the election of Sergeant-at-Arms.

Hon. Henry Hull of Tarrant County nominated Ernest Boyett of Kimble County, and moved that nominations be closed and that the Chief Clerk be instructed to cast the entire vote of the House for Ernest Boyett for Sergeant-at-Arms.

The motion prevailed, and Ernest Boyett was declared to be the duly elected Sergeant-at-Arms of the House.

(Mr. Leonard in the Chair.)

### ELECTION OF READING CLERK

The Chair announced that the next order of business is the election of Reading Clerk.

Hon. A. B. Tarwater of Hale County nominated Jeff Holman of Henderson County.

Hon. Howard Hartzog of Calhoun County nominated Sam Hanna of Dallas County.

Hon. Howard Smith of Hopkins County nominated Clarence T. Jones of Fannin County.

Hon. Mainor Westbrook of Sabine County nominated J. Peyton McGowan of Sabine County.

Hon. James H. Goodman of Midland County seconded the nomination of Jeff Holman.

Hon. Jeff Stinson of Dallas County seconded the nomination of Sam Hanna.

Hon. Roy G. Baker of Grayson County seconded the nomination of Clarence T. Jones.

Hon. J. J. Oliver of Shelby County seconded the nomination of J. Peyton McGowan.

By unanimous consent of the House, each candidate for Reading Clerk was requested to read a section of the Constitution.

The vote being taken up and counted, resulted as follows:

Sam Hanna received 64 votes.

Clarence T. Jones received 55 votes.

J. Peyton McGowan received 18 votes.

Jeff Holman received 11 votes.

No candidate having received a majority of all votes cast, a second ballot was ordered.

The vote being taken up and counted, resulted as follows:

Clarence T. Jones received 75 votes.

Sam Hanna received 74 votes.

Clarence T. Jones, having received a majority of the votes cast, was declared to be duly elected Reading Clerk of the House.

#### ELECTION OF JOURNAL CLERK

The Chair announced that the next business in order is the election of Journal Clerk.

Hon. Max W. Boyer of Ochiltree County nominated Gussie Evans of Travis County.

Hon. Bailey B. Ragsdale of Houston County nominated Adele L. Jacobs of Van Zandt County.

Hon. Maurice Dowell of Caldwell County seconded the nomination of Gussie Evans.

Hon. Ed Hamilton of Hill County seconded the nomination of Adele L. Jacobs.

The vote being taken up and counted, resulted as follows:

Gussie Evans received 109 votes.

Adele L. Jacobs received 37 votes.

Gussie Evans, having received a majority of votes cast, was declared to be the duly elected Journal Clerk of the House.

#### ELECTION OF ENGROSSING CLERK

The Chair announced that the next order of business is the election of Engrossing Clerk.

Hon. E. H. Thornton, Jr., of Galveston County nominated Alice Kilman of Harris County, and moved that nominations be closed, and that the Chief Clerk be instructed to cast the entire vote of the House for Alice Kilman for Engrossing Clerk.

The motion prevailed, and Alice Kilman was declared to be the duly elected Engrossing Clerk of the House.

#### ELECTION OF ENROLLING CLERK

The Chair announced that the next business in order is the election of Enrolling Clerk.

Hon. Homer Thornberry of Travis County nominated Elsie Rupert of Travis County.

Hon. B. T. Johnson of Tarrant County nominated Frances Hollister of Tarrant County.

Hon. Lon E. Alsop of Panola County seconded the nomination of Elsie Rupert.

Hon. C. L. Harris of Dickens County seconded the nomination of Frances Hollister.

The vote being taken up and counted, resulted as follows:

Elsie Rupert received 77 votes.

Frances Hollister received 69 votes.

Elsie Rupert, having received a majority of votes cast, was declared to be duly elected Enrolling Clerk of the House.

#### ELECTION OF DOORKEEPER

The Chair announced that the next business in order is the election of Doorkeeper.

Mr. Fielden moved that in the interest of time, the seconding nominations be now dispensed with.

The motion prevailed.

Mr. Monkhouse asked unanimous consent, that the following be inserted in the Journal in connection with the motion by Mr. Fielden:

"While I am not opposed to the motion, as offered by Mr. Fielden, and since I am Mr. Hoskins' successor, I want to go on record as favoring him for Doorkeeper."

John M. Mohrmann,  
67th District.

Hon. M. M. Davis of Jasper County nominated John R. Adams of Jasper County.

Hon. Albert Derden of Falls County nominated R. H. (Bob) Higgins of Grayson County.

Hon. Jack Langdon of Somervell County nominated Bill Flatt of Johnson County.

Hon. H. H. Schuenemann of Karnes County nominated Conde Hoskins of Gonzales County.

Hon. Arthur Holland of Bell County nominated R. M. Huey of Bell County.

The vote being taken up and counted, resulted as follows:

Conde Hoskins received 84 votes.

John R. Adams received 30 votes.

R. H. (Bob) Higgins received 10 votes.

Bill. Flatt received 10 votes.

R. M. Huey received 9 votes.

Conde Hoskins, having received a majority of all votes cast, was declared to be duly elected Doorkeeper of the House.

#### ELECTION OF ASSISTANT DOORKEEPER

The Chair announced that the next business in order is the election of Assistant Doorkeeper.

Hon. Bryan Bradbury of Taylor County nominated G. A. Atkinson of Grayson County for Assistant Doorkeeper, and moved that nominations be closed, and that the Chief Clerk be instructed to cast the entire vote of the House for G. A. Atkinson for Assistant Doorkeeper.

The motion prevailed, and G. A. Atkinson was declared to be the duly elected Assistant Doorkeeper of the House.

#### ELECTION OF ASSISTANT READING CLERK

The Chair announced that the next order of business is the election of Assistant Reading Clerk.

Hon. W. L. McDonald of Brazos County nominated Frances Wilkes Cloud of Brazos County.

Hon. Gene McNamara of McLennan County nominated Lee Madden of Bell County.

Hon. Albert Derden of Falls County nominated Mrs. A. C. Dunn of Falls County.

By unanimous consent of the House, each candidate for Assistant Reading Clerk was requested to read a section of the Constitution.

The vote being taken up and counted, resulted as follows:

Frances Wilkes Cloud received 90 votes.

Lee Madden received 27 votes.

Mrs. A. C. Dunn received 23 votes.

Frances Wilkes Cloud, having received a majority of all votes cast, was declared to be duly elected Assistant Reading Clerk of the House.

#### ELECTION OF CALENDAR CLERK

The Chair announced that the next business in order is the election of Calendar Clerk.

Hon. Neveille H. Colson of Grimes County nominated Zula Stewart of Montgomery County.

Hon. R. A. Fuchs of Washington County nominated Dan Hruska of Washington County.

The vote being taken up and counted, resulted as follows:

Zula Stewart received 89 votes.

Dan Hruska received 53 votes.

Zula Stewart, having received a majority of the votes cast, was declared duly elected Calendar Clerk of the House.

#### ELECTION OF CHAPLAIN

The Chair announced that the next order of business is the election of Chaplain.

Hon. J. H. Shell of San Patricio County nominated Rev. George W. Coltrin of San Patricio County.

Hon. Margaret Gordon of McLennan County nominated Rev. S. P. Gilmore of McLennan County.

Hon. W. O. Reed of Dallas County nominated Hon. Jasper N. Reed of Bowie County.

The vote being taken up and counted, resulted as follows:

Rev. George W. Coltrin received 86 votes.

Rev. Jasper N. Reed received 28 votes.

Rev. S. P. Gilmore received 23 votes.

Rev. George W. Coltrin, having received a majority of all votes cast, was declared to be duly elected Chaplain of the House.

#### OATH OF OFFICE ADMINISTERED

The Constitutional oath of office was administered by Hon. Homer Leonard, who was in the Chair, to the following officers of the House:

E. R. Lindley, Chief Clerk.

Ernest Boyett, Sergeant-at-Arms.

Clarence T. Jones, Reading Clerk.

Gussie Evans, Journal Clerk.

Elsie Rupert, Enrolling Clerk.

Alice Kilman, Engrossing Clerk.

Conde Hoskins, Doorkeeper.

G. A. Atkinson, Assistant Door-keeper.

Zula Stewart, Calendar Clerk.

Frances Wilkes Cloud, Assistant Reading Clerk.

Geo. W. Coltrin, Chaplain.

### ADJOURNMENT

On motion of Mr. Dean, the House, at 6:40 o'clock p. m., adjourned until 10:00 o'clock a. m., tomorrow.

### APPENDIX

#### STANDING COMMITTEE REPORTS

The following committees filed favorable report on bills, as follows:

Appropriations: S. B. No. 18 and H. B. No. 1.

#### REPORT OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,

Austin, Texas, January 10, 1939.

Hon. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 1, A bill to be entitled "An Act making an appropriation of

the sum of Two Hundred and Fifty Thousand Dollars (\$250,000), or so much thereof as may be necessary out of any funds in the State Treasury not otherwise appropriated, to pay contingent expenses, and to pay mileage and per diem of Members and per diem of officers and employees of the Regular Session of the Forty-sixth Legislature, etc., and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Acting Chairman.

#### REPORT OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, January 11, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 2, Providing for a Joint Session of the House and Senate at 10:30 a. m., Wednesday, January 11, 1939, for the purpose of hearing the Governor's message.

Has carefully compared same and finds it correctly enrolled.

LOUISE SNOW PHINNEY,  
Acting for the Chairman.

**In Memory of**  
**John L. Darrouzet**

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Mr. Thornton offered the following resolution:

H. C. R. No. 5, In memory of John L. Darrouzet.

Whereas, In the deeply deplored passing of John L. Darrouzet on June 4, within a short span of time, Galveston, Texas, was again called upon to surrender another of its most beloved and highly regarded citizens to the imperious summons of death; who answered that last summons of the Grim Reaper as gallantly and as preparedly as he has always answered every call in life; and

Whereas, In the State which proudly claims John L. Darrouzet as its own, a deep void has been left in the hearts of all who loved and honored him for his great gifts of mind and heart, manifest to all who knew him; who gave unstintingly to every needy cause, who made great and valuable contributions to his State and his community, who denied his contributions and benefactions to no worthy enterprise, whose entire career as a citizen of Texas is eminently worthy of emulation; and

Whereas, John L. Darrouzet leaves behind him a record so highly deserving of retrospection, born in Galveston on the fourth day of September, 1877, the son of Jacques and Marie Darrouzet. He received his early education at St. Mary's University in Galveston, was admitted to the Bar of Texas in 1900, received his Master of Arts Degree from St. Mary's University in 1910, and was honored with a degree of doctor of laws from St. Edward's University of Austin in 1932. Called throughout the State "the Black Eagle of the Gulf," and known throughout the country for his political and patriotic activities; and

Whereas, By his innumerable good deeds, John L. Darrouzet shall enjoy the immortality that is imperishable; and

Whereas, In his will, a eulogy to his mother and his wife and a patrimony written for the guidance of his sons, John L. Darrouzet declared:

"I owe the world a debt. Folks have been good to me. All I can say is that I have been on the square, fought the fight when I thought it was right to do so. I may at some time hurt the feelings of some people. I trust they have forgotten it; I never held a grudge in my life. To the world and its people, I entrust my boys, and I hope that they will be as good to the boys as they have been to me; I trust that they will make as good citizens as there are anywhere."

Whereas, The contributions of John L. Darrouzet to both community and State shall ever keep his memory green and have merited him the highest honor and ovation this State can pay; now, therefore, be it

Resolved by the Members of the Senate and the House of Representatives concurring, To acknowledge the loss of his inspiring presence and his splendid record before the bar of Texas, and that a copy of this resolution be spread on the memorial pages of the Senate and House Journals of the day, to designate the love and esteem in which was held this great and good soul and letting this serve as an acknowledgment of the debt Texas



owes, and the tribute Texas pays, to a true son of the people; and also, be it further

Resolved, That the Secretary of the Senate, and the Chief Clerk of the House of Representatives send the family of the deceased a copy of this resolution under their respective seals and that when the Senate and House adjourn today, they do so in silent tribute to a man whose name shall live long in the consciousness of his State and in the affection of his friends and sorrowing family.

The resolution was read second time.

Signed—Morse, Speaker; Allen, Allison, Alsup, Anderson, Bailey, Baker of Fort Bend, Baker of Grayson, Bell, Blankenship, Bond, Boyd, Boyer, Bradbury, Bradford, Bray, Bridgers, Broadfoot, Brown of Cherokee, Brown of Nacogdoches, Bundy, Burkett, Burney, Cauthorn, Celaya, Chambers, Clark, Cleveland, Cockrell, Coleman, Colquitt, Mrs. Colson, Cornett, Corry, Crossley, Daniel, Davis of Jasper, Davis of Upshur, Dean, Derden, Dickison, Dickson, Donaghey, Dowell, Dwyer, Faulkner, Felty, Ferguson, Fielden, Fuchs, Galbreath, Gilmer, Goodman, Mrs. Gordon, Hale, Hamilton, Hankamer, Hardeman, Hardin, Harp, Harper, Harrell of Lamar, Harris, Hartzog, Heflin, Holland, Howard, Howington, Hull, Hunt, Isaacks, Johnson of Ellis, Johnson of Tarrant, Keith, Kennedy, Kern, Kerr, Kersey, Kinard, King, Langdon, Lehman, Leonard, Leyendecker, Little, Lock, Loggins, London, Mays, McAlister, McDaniel, McDonald, McFarland, McMurry, McNamara, Mohrmann, Monkhouse, Montgomery, Morris, Newell, Nicholson, Oliver, Olsen, Pace, Petsch, Pevehouse, Piner, Pope, Ragsdale, Reader of Bexar, Reader of Erath, Reaves, Reed, Rhodes, Riviere, Roach, Roberts, Robinson, Russell, Schuenemann, Segrist, Shell, Skiles, Smith of Frio, Smith of Hopkins, Smith of Matagorda, Spencer, Stinson, Stoll, Talbert, Tarwater, Taylor, Tennant, Thornberry, Turner, Vale, Vint, Voigt, Waggoner, Weldon, Wells, Westbrook, White, Wilson, Winfree, Wood, Worley and Wright.

On motion of Mr. Thornton, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

**In Memory of**  
**Honorable A. C. Dunn**

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Mr. Derden offered the following resolution:

H. S. R. No. 11, In memory of Honorable A. C. Dunn.

Whereas, On the 8th day of May, 1938, the All Mighty God in His superior judgment, which we mortals so little understand, lifted from its earthly temple a most dearly beloved soul, and thereby erased from the records of mankind, and wrote upon the records of the heavenly host the name of our co-worker, the Honorable A. C. Dunn, of Marlin, Texas; and

Whereas, Mr. Dunn had served his State in many valuable ways, giving much of his life to that of public service, having been at one time Secretary to the City of Rosebud, Texas, later serving for two terms as a Member of this House of Representatives from Falls County in the Thirty-eighth and Thirty-ninth Legislatures, and following his service as a Member of the House he served, first, as Assistant Reading Clerk for one term, and as its Chief Reading Clerk for the past ten years; and

Whereas, He served with such untiring efforts, the days never growing too long, the work never too heavy to cause him for one minute to ever complain, and even though the day's work may have required that he read page after page and for hour after hour, even into the late hours of the night, nevertheless, his strong bass voice rang out with the same clear and understandable tones even to the very end; and

Whereas, He gave his very best to his work, even working when he should have been resting, carrying on when his physical strength and better judgment demanded that he rest, never letting any Member of this House know that he ever felt the slightest strain of fatigue, simply reveling in the fact that he has an opportunity to serve; and

Whereas, His services, and above all else, his kind nature, his broad smile, and his stately character will be forever missed from the realm of this Hall so long as there serves here any Member who knew him, or had the pleasure to serve with him; and

Whereas, The influence of his life and the example he set before his fellow man in working and serving with us shall live in the hearts and minds of all who knew and loved him so long, and miss him so much; now, therefore, be it

Resolved by the House of Representatives, That upon adjournment today we do so in honor of him, and as a tribute to the life he lived, the character he exhalted, and the service he rendered; and, be it further

Resolved, That a copy of this resolution be spread upon the memorial pages of the House Journal of this day, and that the Chief Clerk of the House of Representatives deliver a copy of this resolution to his wife who survives him.

The resolution was read second time.

Signed—Morse, Speaker; Allen, Allison, Alsup, Anderson, Bailey, Baker of Fort Bend, Baker of Grayson, Bell, Blankenship, Bond, Boyd, Boyer, Bradbury, Bradford, Bray, Bridgers, Broadfoot, Brown of Cherokee, Brown of Nacogdoches, Bundy, Burkett, Burney, Cauthorn, Celaya, Chambers, Clark, Cleveland, Cockrell, Coleman, Colquitt, Mrs. Colson, Cornett, Corry,

Crossley, Daniel, Davis of Jasper, Davis of Upshur, Dean, Dickison, Dickson, Donaghey, Dowell, Dwyer, Faulkner, Felty, Ferguson, Fielden, Fuchs, Galbreath, Gilmer, Goodman, Mrs. Gordon, Hale, Hamilton, Hankamer, Hardeman, Hardin, Harp, Harper, Harrell of Bastrop, Harrell of Lamar, Harris, Hartzog, Heflin, Holland, Howard, Howington, Hull, Hunt, Isaacks, Johnson of Ellis, Johnson of Tarrant, Keith, Kennedy, Kern, Kerr, Kersey, Kinard, King, Langdon, Lehman, Leonard, Leyendecker, Little, Lock, Loggins, London, Mays, McAlister, McDaniel, McDonald, McFarland, McMurry, McNamara, Mohrmann, Monkhouse, Montgomery, Morris, Newell, Nicholson, Oliver, Olsen, Pace, Petsch, Pevehouse, Piner, Pope, Ragsdale, Reader of Bexar, Reader of Erath, Reaves, Reed, Rhodes, Riviere, Roach, Roberts, Robinson, Russell, Schuenemann, Segrist, Shell, Skiles, Smith of Frio, Smith of Hopkins, Smith of Matagorda, Spencer, Stinson, Stoll, Talbert, Tarwater, Taylor, Tennant, Thornberry, Thornton, Turner, Vale, Vint, Voigt, Waggoner, Weldon, Wells, Westbrook, White, Wilson, Winfree, Wood, Worley and Wright.

On motion of Mr. Alsup, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.